



Georgia Department of Early Care and Learning

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Nathan Deal
Governor

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Commissioner

Notice of Public Hearing for Proposed Rulemaking
Bright from the Start: Georgia Department of Early Care and Learning

Rule Chapter 290-2-3, Rules and Regulations for Family Day Care Homes

Proposed Amendment of Rule 290-2-3-.02
Proposed Amendment of Rule 290-2-3-.03
Proposed Amendment of Rule 290-2-3-.04
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Notice Date: October 9, 2015

Dear Sir or Madam:

Bright from the Start: Georgia Department of Early Care and Learning (Bright from the Start) proposes to amend our Child Care Learning Center rules in Rule Chapter 290-2-3 in the *Rules and Regulations for Family Day Care Homes*.

Bright from the Start proposes these changes to the aforementioned rules and regulations as deemed necessary by the passage of 2015 Georgia House Bill 401 into law.

The purposes of the proposed amendments are as follows: to change the designation of this type of program from Family Day Care Home to Family Child Care Learning Home; to simplify the rules about criminal background checks by rearranging the format; to align the rules with the changes in the law after passage of 2015 House Bill 401 that are to go into effect on January 1, 2016 by 1) adding provisions to allow for two year portability for records check determination letters for eligible students, 2) removing the notary requirement for records check applications, and 3) removing the background check requirements for most parents; to correct scrivener's errors; to align the rules with Georgia law regarding the prohibition of smoking in child care facilities and the allowance of EpiPen storage and administration.

The proposed amendments to the *Rules and Regulations for Family Day Care Homes* as noted below have been posted to Bright from the Start's website at <http://dec.al.ga.gov/ChildCareServices/ProposedRevisions.aspx>.

The proposed changes are being considered for adoption on a permanent basis, and Bright from the Start invites interested parties to comment on them. All comments, written and verbal, will be given full consideration.

Interested parties may submit written comments by mail to 2 Martin Luther King, Jr. Drive SE, Suite 754, East Tower, Atlanta, GA 30334, by fax to (404) 656-0351 or by e-mail to CCSRuleRevisions@dec.al.ga.gov. To be considered, Bright from the Start must receive written comments on or before 5 p.m., November 10, 2015.

Interested parties who prefer to make verbal comments on the proposed rule changes may do so at a public hearing before the Board of Early Care and Learning. The public hearing will be held from 1 p.m. to 2 p.m. at 2 Martin Luther King Jr. Drive SE, East Tower 8th Floor, Oak Room, Atlanta, Georgia 30334 on Thursday, November 12, 2015. Speakers should sign in to speak before 1 p.m. If no guest speakers arrive by 1:30 p.m., the board will resume its regular meeting. Comments made in writing will be given the same consideration as those that are made verbally.

All interested parties are invited to attend the public hearing even if they choose not to make verbal comments regarding the rule amendment proposals.

I. Proposed Amendments to Chapter 290-2-3, *Rules and Regulations for Family Day Care Homes*

A. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 290-2-3-.02 entitled “Title and Purpose” in its *Rules and Regulations for Family Day Care Homes*. This amendment shall include the following:

290-2-3-.02 Title and Purpose

These rules shall be known as the Rules and Regulations for Family Child Day Care Learning Homes.

The purpose of these rules is to provide for the ~~registration~~ licensure of Family Child Care Learning Homes~~family day care homes~~ within Georgia.

Authority O.C.G.A. Sec. 20-1A-1 *et seq.*

B. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 290-2-3-.03 entitled “Definitions” in its *Rules and Regulations for Family Day Care Homes*. This amendment shall include the following:

290-2-3-.03 Definitions

In these rules, unless the context otherwise requires, the words and phrases set forth herein shall mean the following:

- (a) "Adult" means any competent individual eighteen (18) years of age or older.
- (b) "Child" or "Children" means any person(s) under 18 years of age for whom child care service(s) is (are) provided in a Home. For purposes of these rules, the terms shall not include Children~~children~~ that are related to the License Holder or applicant ~~registrant~~ as defined in these rules or Children~~children~~ whose Parent(s) reside in the same residence as the License Holder or applicant ~~registrant~~.
- (c) "Crime" means
 - 1. Any felony;
 - 2. A violation of O.C.G.A. Sec. 16-5-23, relating to simple battery, where the victim is a minor;
 - 3. A violation of O.C.G.A. Sec. 16-5-23.1, relating to battery, where the victim is a minor;
 - 4. A violation of O.C.G.A. Sec. 16-21-1, relating to contributing to the delinquency of a minor;
 - 5. A violation of O.C.G.A. Sec. 16-6-1 *et seq.*, relating to sexual offenses;
 - 6. A violation of O.C.G.A. Sec. 16-4-1, relating to criminal attempt when the crime attempted is any of the crimes specified by this paragraph; or
 - 7. Any other offenses committed in another jurisdiction which, if committed in this state, would be one of the enumerated crimes listed in this paragraph.
- (d) "Criminal Record ~~record~~" means:
 - 1. Conviction of a crime; or
 - 2. Arrest, charge, and sentencing for a crime where:
 - (i) A plea of nolo contendere was entered to the charge; or
 - (ii) First offender treatment without adjudication of guilt pursuant to the charge was granted; provided, however, that this division shall not apply to a violation of O.C.G.A. 16-13-1 *et seq.*, relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of O.C.G.A. Sec. 16-13-1 *et seq.* if such violation or offense constituted only simple possession; or

(iii) Adjudication or sentence was otherwise withheld or not entered on the charge; provided, however, that this division shall not apply to a violation of O.C.G.A. Sec. 16-13-1 et seq. relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of Chapter 13 of Title 16 if such violation or offense constituted only simple possession; or

3. Arrest and being charged for a crime if the charge is pending, unless the time for prosecuting such crime has expired pursuant to O.C.G.A. Sec. 17-3-1 et seq.

(e) "Department" means ~~the~~ Bright from the Start: Georgia Department of Early Care and Learning.

(f) "Employee" means any person, other than the Provider or a Provisional Employee, who is 17 years of age or older; and

1. Who is employed by a Home to perform any duties which involve personal contact between that person and any ~~Child~~ child being cared for at the Home; or

2. Who resides at the Home; or

3. Who ~~performs~~ provides duties for the Home, with or without compensation, ~~performs duties for the home~~ which involve personal contact between that person and any ~~Child~~ child being cared for by the Home, including but not limited to volunteers that perform consistent services for the Family Child Day Care Learning Home; or

4. Who is employed by a Home and who also has a ~~Child~~ child in care at the Home; or

5. Who is an independent contractor hired by the Home to offer consistent supplemental educational or physical activities for ~~Children~~ children in care; or

6. Who is a Student-in-Training.

(g) "Family Day Child Care Learning Home" or "Home" means a private residence operated by any person who receives therein for pay for supervision and care fewer than 24 hours per day, without transfer of legal custody, at least three but not more than six Children under 13 years of age who are not Related to such persons and whose Parent(s) ~~or guardians~~ are not residents in the same private residence as the Provider and which is required to be licensed; provided, however, that the total number of unrelated ~~Children~~ children cared for in such Home, for pay and not for pay, may not exceed six ~~Children~~ children under 13 years of age at one time, except that a Provider may care for two additional children three years of age or older for two designated one hour periods daily upon approval by the Department.

(h) "Fingerprint" means any inked fingerprint card or an electronic image of a person's fingerprint.

(i) "Fingerprint Records Check Application" means a document created by the Department to be completed and submitted to the Department by every actual and potential Provider and Employee (including residents, volunteers, Students-in-Training, independent contractors) of the Home that indicates the individual's name, facility type, and such other information as the Department deems appropriate and which authorizes the Department to receive and render a Fingerprint Records Check Determination pursuant to any criminal history record information received pertaining to the individual from any local, state, or national criminal justice or law enforcement agency.

(j) "Fingerprint Records Check Determination" means a satisfactory or unsatisfactory determination made by the Department that is based on national criminal history record information obtained by the use of Fingerprints.

(k) "License" means the document issued by the Department to authorize the License Holder to whom it is issued to operate a Family Child Care Learning Home in accordance with these rules.

(l) "License Holder" means the individual issued a License by the Department to operate a Home at a particular location who is responsible for the operation and maintenance of the Home and who primarily provides care in the Home in accordance with these rules.

~~(m)(k)~~ (k) "Parent" means a person related within the second degree of consanguinity by either blood or marriage, or a person with lawful custody, or a state-regulated foster parent, or a legal guardian of a child in care. For purposes of these rules, a Parent ~~who does not perform consistent services for the Home~~ shall not be considered an Employee unless such Parent is deemed an Employee by the Home or either resides in the Home or is compensated in any way the Home other than through appropriate state or federal funds.

(n) ~~(l)~~ "Plan of ~~Correction~~ correction" means a written plan prepared by the License Holder or applicant registrant and submitted to and approved by the Department ~~department~~ which states the procedure(s), method(s) and time frame(s) that will be used ~~by the registrant~~ to correct the area(s) of noncompliance with these rules.

~~(o)(m)~~ (m) "Preliminary Records Check Determination" means a written satisfactory or unsatisfactory determination by the Home based upon examination of an individual's Georgia Crime Information Center (GCIC) information ~~(such as that found on a RAP sheet)~~ obtained solely from a law enforcement agency.

~~(p)(n)~~ (n) "Provider" means the License Holder or applicant registrant of the Family Day Child Care Learning Home who is also the person that primarily provides care in the Home.

~~(q)(o)~~ (o) "Provisional Employee" means a person other than the Provider or Employee, who has received a satisfactory Preliminary Records Check Determination, whose duties involve personal contact between that person and any Child ~~child~~ being cared for at the facility and who is hired for a limited period of employment in accordance with these rules.

~~(p)~~ "Registration" or "Certificate of Registration" means ~~a license or certificate issued by the Department to a Family Day Child Care Learning Home Provider granting the applicant permission to operate a Family Day Child Care Learning Home in accordance with these rules.~~

(r) "Records Check Clearance Date" means the date upon which an individual's fingerprint report was generated and which is noted on a letter of Satisfactory Records Check Determination issued by the Department.

~~(s)(q)~~ (q) "Related" or "Related Children" means children that are related to the Provider within the second degree of consanguinity or affinity by either blood or marriage (i.e. sons, daughters, grandchildren, nieces, nephews, first cousins), or under the legal guardianship, custody or state-regulated foster care of the Provider.

~~(t)(r)~~ (r) "Satisfactory Records Check Determination" means a written determination that a person for whom either a preliminary or a fingerprint records check was performed was found to have no Criminal Record as defined in these rules.

(u)(s) "Supervision" and "Supervised" means that the Provider or authorized Adult providing care ~~provider~~ is alert, is providing watchful oversight to the Childrenechildren, is able to respond promptly to the needs and actions of Childrenechildren, and can intervene promptly in the case of an emergency.

(v)(t) "Student-in-Training" means a student currently enrolled in either a high school recognized by the Department of Education or an early education curriculum through an accredited school of higher education ~~ment-in-the-course-of-study~~ which requires or permits the student to observe and participate in the care of Childrenechildren at a Home during a limited period of time, i.e., one quarter, one trimester or one semester, provided that they are under the direct supervision of Home personnel at all times. Sixteen-year-old or younger Students-in-Training are exempt from criminal record check requirements.

(w)(u) "Unsatisfactory Records Check Determination" means a written determination that a person for whom either a preliminary or a fingerprint records check was performed was found to have~~has~~ a Criminal Record as defined in these rules.

(x) "Valid Evidence" means proof of a Satisfactory Records Check Determination as follows:

1. Providers – a current satisfactory determination letter issued by the Department with a Records Check Clearance Date that is within the immediate preceding one year of the date of licensure of the Home or a current and valid court order indicating that an unsatisfactory determination made by the Department has been reversed;

2. Provisional Employees – a valid and current satisfactory Preliminary Records Check Determination issued within the immediate preceding 10 days of the Provisional Employee's date of hire;

3. Employees hired before January 1, 2014 – a current satisfactory determination letter issued by the Department with a Records Check Clearance Date that is within the immediate preceding one year of the Employee's date of hire, a current and valid court order indicating that an unsatisfactory determination made by the Department has been reversed, or, if prior to January 1, 2017, a valid and current satisfactory Preliminary Records Check Determination. As of January 1, 2017, a Preliminary Records Check Determination shall no longer be accepted as valid evidence;

4. Employees hired after January 1, 2014 – a current satisfactory determination letter issued by the Department with a Records Check Clearance Date that is within the immediate preceding one year of the Employee's date of hire or a current and valid court order indicating that an unsatisfactory determination made by the Department has been reversed.

Authority: O.C.G.A. § 20-1A-1 *et seq.*

C. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 290-2-3-.04 entitled "*Registration Requirements and Applications*" in its *Rules and Regulations for Family Day Care Homes*. This amendment shall include the following:

290-2-3-.04 Registration Requirements and for Applications and Licenses

(1) General

(a) No person shall operate a Family Child Care Learning Home in the State of Georgia unless a License has been obtained from the Department.

(b) A License is nontransferable. A License to operate a Home is not transferable in any way. A change of residence or address or Provider requires a new License. Each License shall become invalid immediately upon the final closure of the Home, or the final suspension, revocation, or restriction of the License in accordance with Georgia law.

(c) Any person that provides care for at least three but not more than six Children under 13 years of age who are not Related to such persons and whose Parent(s) are not residents in the same private residence as the Provider shall make application to the Department for a License to operate a Family Child Care Learning Home.

(d) Any person that provides care for more than six children for pay, related or unrelated, as defined in these rules, shall make application to the Department for a License to operate a Child Care Learning Center, except as provided in 290-2-3-.07(6).

(e) No home shall claim to be a licensed Family Child Care Learning Home unless it has been issued a current and valid License by the Department.

(2) License Applications and Requirements

(a) An application for a License to operate a Family Child Care Learning Home shall be submitted to the Department on the forms provided by the Department.

(b) A License Applicant shall not hire a Provisional Employee.

(c) Pre-Service Training. Prior to the submission of the License application, the applicant who will be responsible for the day-to-day operations shall complete the pre-service training listed below that has been approved by the Department and which will include:

1. Orientation that provides, at a minimum, instruction on the application process and gives an overview of the Department's rules and regulations that relate to the operation of the Family Child Care Learning Home;

2. Training course that includes the Provider competencies that serve as a framework for professional development, which includes, but is not limited to, early learning standards, communication, developmentally appropriate practices, professional and leadership development, business management, and advocacy for the Family Child Care Learning Home, parents, children, and staff;

3. Cardiopulmonary resuscitation (CPR) and first aid training programs offered by certified or licensed health care professionals and approved by the Department, which include emergency care for infants and children.

(d) Pre-Licensing Visit. Following receipt and review of the complete license application package, the Department shall conduct an on-site inspection of the potential Family Child Care Learning Home to assess compliance with these rules. The Department may deny the application

for License if conditions are found during the on-site inspection that pose health and/or safety risks to children.

(e) Criminal Records. Before a License to operate a Home may be issued there shall be on file a valid, current fingerprint based Satisfactory Fingerprint Records Check Determination issued by the Department for the Provider and every potential Employee of the Home, including persons age 17 or older who reside at the Home or who, with or without compensation, perform duties at the Home which include personal contact between that person and Children in care.

(f) Qualifications. Before a License to operate a Home may be issued the Provider of the Home and all Employees must be qualified, as defined in these rules, to administer or work in a Home. The Department may require additional reasonable verification of the qualifications of the Provider and Employees at the time of application for a License or at any other time the Department has reason to believe or is shown by credible evidence that a Provider or Employee is not qualified under these rules to administer or work in a Home. Reasonable verification which may be required by the Department may include, but need not be limited to, any or all of the following: statement(s) from an attending physician or other health care professionals attesting to the mental and/or physical health of the Provider or Employee; letters of reference from designated persons in the community where the Provider and/or Employee intends to work or is working; certified copies of court orders and additional criminal records check submissions.

(g) A License will be issued, upon presentation of evidence satisfactory to the Department that the Home is in compliance with applicable statutes and these rules. The License is valid for one year unless voluntarily surrendered, reduced to a restricted License or suspended or revoked by the Department.

(h) Denial of License. The Department may deny a License to an applicant for knowingly making any false statement in connection with the application for a License, for failing to comply with these rules and regulations, for flagrant and continued operation of an unlicensed Home in contravention of the law, for prior denial or revocation of any License within one year of the date of the application, or for failure to provide the Department access to the Home or to information pertinent to the initial License of the Home.

~~(1) Registration Requirement. No person shall operate a Family Day Care Home in the State of Georgia unless a Certificate of Registration has been obtained from the Department.~~

~~(2) Applications. An application for a Registration to operate a Family Day Care Home shall be submitted to the Department on the forms provided by the Department. Any person that provides care for more than six children for pay, related or unrelated, as defined in these rules, shall make application to the Department for a license to operate as either a Group Day Care Home or a Child Care Learning Center.~~

~~(a) Pre-Service Training. Prior to the submission of the Registration application, the applicant who will be responsible for the day-to-day operations shall complete the training listed below that has been approved by the Department and which will include:~~

- ~~1. Orientation that provides, at a minimum, instruction on the application process and gives an overview of the Department's rules and regulations that relate to the operation of the Family Day Care Home;~~
- ~~2. Training course that includes the Provider competencies that serve as a framework for professional development, which includes, but is not limited to, early learning standards, communication, developmentally appropriate practices, professional and leadership development, business management, and accountability for the Family Day Care Home, Parents, children, and staff;~~
- ~~3. Cardiopulmonary resuscitation (CPR) and first aid training programs offered by certified or licensed health care professionals and approved by the department, which include emergency care for infants and children.~~

~~(b) Pre-Registration Visit. Following receipt and review of the complete application package, the Department may conduct an on-site inspection of the potential Family Day Care Home to assess compliance with these rules. The Department may deny the application for Registration if conditions are found during the on-site inspection that pose health and/or safety risks to children.~~

~~(c) Criminal Records Check Required. The Provider, Provisional Employees, and Employees of a Home must submit to criminal records checks in connection with any application for a Registration.~~

~~1. Fingerprint Records Check Determination. Before a Registration to operate a Home may be issued there shall be on file with the Department a Satisfactory Fingerprint Records Check Determination on the Provider and all Employees including persons age 17 or older who reside at the Home or who, with or without compensation, perform duties at the Home which include personal contact between that person age 17 or older and children in care.~~

~~2. Ongoing Requirements. Before a person age 17 or older may become an Employee or resident of a registered Home, the Provider shall cause that person to submit both a Fingerprint Records Check Application to the Department and Fingerprints to an authorized fingerprint processing site.~~

~~(i) No person having an Unsatisfactory Records Check Determination as to his or her Criminal Record may be present in a Family Day Care Home while children are present in care. No person age 17 or older having an Unsatisfactory Records Check Determination as to his or her Criminal Record may reside at the Home or have contact with any child that is in care at the Home.~~

~~3. Penalties. A Registration is subject to suspension or revocation and the Department may refuse to issue a Registration if a Provider or Employee, as defined in these rules, does not undergo the applicable records checks and receive a Satisfactory Records Check Determination.~~

~~(d) A Registration will be issued, upon presentation of evidence satisfactory to the Department, that the Home is in compliance with applicable statutes and these rules. The Registration is valid for one year unless voluntarily surrendered by the holder, or reduced to a restricted Registration or suspended or revoked by the Department.~~

~~1. Qualifications Requirement. In order to obtain or retain a Registration, the Provider of the Home and its Employees and Provisional Employees must be qualified as defined in these rules, to administer or work in a Home. The Department may require additional reasonable verification of the qualifications of the Provider, Employees and Provisional Employees either at the time of application for a Registration or at any other time whenever the Department has reason to believe or is shown by credible evidence that a Provider, Employee or Provisional Employee is not qualified under these rules to administer or work in a Home.~~

~~(i) Reasonable verification which may be required by the Department may include, but need not be limited to any or all of the following: statement(s) from an attending physician or other health care professionals attesting to the mental and/or physical health of the Provider, Employee or Provisional Employee; letters of reference from designated persons in the community where the provider and/or employee intends to work or is working; certified copies of court orders and additional criminal records check.~~

~~2. Registration is nontransferable. A Registration to operate a Home is not transferable in any way. A change of residence or address or Provider requires a new Registration. Each Registration shall be returned to the Department immediately upon the closure of the Home, or the suspension, revocation, or restriction of the Registration.~~

~~3. Renewal of Registration. A Registration will be renewed upon the filing of a renewal application and a determination by the Department that the Home presents satisfactory evidence of meeting the standards set forth in these rules(s).~~

~~(e) Denial of Application for Registration. The Department may deny a Registration to an applicant for knowingly making any false statement in connection with the application for a Registration, for failing to comply with these rules and regulations, for flagrant and continued operation of an unregistered Home in contravention of the law, for prior denial or revocation of any Registration or license within one year of the date of the application, and for failure to provide the Department access to the Home or to information pertinent to the initial Registration of the Home.~~

~~1. Notice of Denial. The Department will provide an applicant a written notice of the denial of Registration. The applicant shall be afforded an opportunity for a hearing in accordance with applicable law and regulations. Provided however, the Department may deny an application without the right to a hearing if it is found that:~~

~~(f) No home shall claim to be a registered Family Day Care Home unless it has been issued a current and valid registration by the Department.~~

Authority: O.C.G.A. § 20-1A-1 *et seq.*

D. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 290-2-3-.05 entitled “Inspections and Investigations” in its Rules and Regulations for Family Day Care Homes. This amendment shall include the following:

290-2-3-.05 Inspections and Investigations

The ~~Department~~ department is authorized and empowered to conduct investigations and on-site inspections of any ~~Home~~home during the operating hours of the ~~Home~~home. The proposed and current ~~Provider~~provider, ~~Provisional Employees~~ and ~~Employees~~employees shall cooperate with any inspection or investigation by responding truthfully to any legitimate ~~Departmental~~departmental inquiry.

(a) Consent to Entry. An application for a ~~Licensure~~registration to operate a ~~Home~~home or the issuance of a ~~Licensure~~registration by the ~~Department~~department constitutes consent by the applicant, and ~~Provider~~provider, for to allow the department's ~~any~~ representative of the ~~Department~~, after displaying identification to any ~~Home~~home staff, to enter the premises at any time ~~Children~~children are being cared for in the ~~Home~~home. This consent applies to includes both scheduled and unscheduled inspections and includes consent for meaningful access to all staff, parts of the premises of the ~~Home~~home where ~~Children~~children may be in care, all ~~Children~~children present, and all records required by these rules. The ~~Department~~department shall have the authority to require the production of any books, records, papers, or other information related to the initial or continued ~~Licensure~~registration of the ~~Home~~home.

(b) Failure to Allow Access. Failure to allow access of the ~~Department's~~department's representative to the ~~Home~~home, its staff, or the ~~Children~~children receiving care at the ~~Home~~home or the books, records, papers, or other information related to initial or continued ~~Licensure~~registration, or failure to cooperate with an ~~departmental~~ inspection or investigation by the ~~Department~~ shall constitute good cause for the denial, restriction, revocation or suspension of a ~~Licensure~~registration, or other penalty as provided by law.

(c) False or Misleading Statements. No ~~Provider~~provider shall make or condone any ~~Provisional Employee or Employee~~employee making false or misleading statements to the ~~Department~~department in connection with any authorized investigation of inspection being conducted by the ~~Department~~department.

Authority O.C.G.A. Secs. 31-2-6, 49-5-8, 49-5-12.

E. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 290-2-3-.06 entitled “Parental Access” in its Rules and Regulations for Family Day Care Homes. This amendment shall include the following:

290-2-3-.06 Parental Access

The ~~Parent~~ parent(s) and ~~guardian(s)~~ of a ~~Child~~child shall be permitted access to all child care areas of the ~~Home~~home at all times a ~~Child~~child is in attendance, unless otherwise ordered by a court of proper jurisdiction.

Authority O.C.G.A. Secs. 49-5-8, 49-5-12.

F. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 290-2-3-.07 entitled “Staffing and Supervision” in its Rules and Regulations for Family Day Care Homes. This amendment shall include the following:

290-2-3-.07 Staffing and Supervision

(1) The Provider shall be at least 21 years of age.

(2) ~~Effective July 1, 2009,~~ Providers who apply for initial ~~License~~Registration shall submit valid evidence/documentation of one of the following credentials/degrees issued by either the organizations listed below, an accredited educational institution, or another organization approved/recognized by the Department:

(a) Child Development Associate (CDA) credential (issued by the Council for Professional Recognition);

(b) Technical Certificate of Credit (TCC) in Early Childhood Education;

(c) Technical College Diploma (TCD) in Early Childhood Education;

(d) Associate Degree in Early Childhood Education (AA, AAS, AAT);

(e) Paraprofessional Certificate (issued by the Georgia Professional Standards Commission);

(f) Bachelor’s degree in Early Childhood Education; or

(g) Master’s degree in Early Childhood Education.

(3) ~~Family Day Care Home~~ Providers and applicants who have submitted an application for ~~License~~Registration or re-registration on or before June 30, 2009 shall be exempt from the requirement stated in (2)(a) through (g) above, except if the Family Day Child Care Learning Home closes for business and then submits a new application for ~~License~~Registration on or after July 1, 2009.

Any ~~Family Day Care Home~~ Provider who submits an application for ~~License~~Registration on or after July 1, 2009 must meet one of the education requirements listed above. Any ~~Family Day Care Home~~ Provider who submits a new application for ~~License~~Registration on or before June 30, 2009 shall have a high school diploma, General Education Diploma (GED), or similar credentials and shall submit valid evidence/documentation of such credential.

(4) ~~The Every~~ Provider, Provisional Employee and Employee shall have current evidence of successful completion of a biennial training program in cardiopulmonary resuscitation (CPR) and a triennial training program in first aid which have been offered by certified or licensed health care professionals and which dealt with emergency care for infants and children. Additionally, ~~within one year of the effective date of these rules and thereafter on an annual basis,~~ the Provider shall attend ten clock hours of diverse training which is related to care of children and which is offered by an accredited college, university or vocational program or other Department approved source annually. Records of completion of such training programs shall be maintained in the Home by the Provider, as required by these rules. The annual ten clock hours of training shall be chosen from the following fields:

(a) Child Development: including discipline, guidance, nutrition, injury control and safety;

(b) Health: including sanitation, disease control, cleanliness, detection and disposition of illness;

(c) Child Abuse and Neglect: including identification and reporting, and meeting the needs of abused and/or neglected children; and

(d) Business Related Topics: including parental communication, recordkeeping, etc.; provided however that such business related training shall be limited to no more than two of the required ten clock hours of training.

(5) The Provider, Employees and Provisional Employees shall:

(a) Never have been shown by credible evidence, e.g., a court ~~or jury~~, a department investigation or other reliable evidence to have abused, neglected, sexually exploited, or deprived a child or adult or to have subjected any person to serious injury as a result of intentional or grossly negligent misconduct as evidenced by an oral or written statement to this effect obtained at the time of application or hire or at any other time the Department has reason to believe that a Provider, Employee or Provisional Employee is not qualified under these rules to administer or work in the Home; and

(b) Must be able ~~Not be suffering from any physical handicap or mental health disorder, behavioral disorder or developmental disability which would interfere with the ability to perform~~ adequately the job duties of providing for the care and supervision of the children in the Home in accordance with these rules; and

(c) Not have made any material false statements concerning qualifications requirements either to the Department or the Provider; and

(d) Have a Satisfactory Records Check Determination as defined in these rules; and

(e) Must provide additional reasonable verification of the qualifications of the Provider, Employees and Provisional Employees upon request by the Department. Reasonable verification may include, but need not be limited to any or all of the following: statement(s) from an attending physician or other health care professional attesting to the mental and/or physical health of the Provider, Provisional Employee or Employee; letters of reference from designated persons in the community where the Provider, Provisional Employees and/or Employees intend to work or is working; certified copies of court orders; and additional criminal records checks.

(6) The total number of Children not Related to the Provider in the Family Day Child Care Learning Home, for pay or not for pay, cannot exceed six ~~Childrenchildren~~, except that a Provider may care for two additional children who are three years of age or older for two designated one hour periods daily upon approval by the Department.

~~(e) If a twelfth hour is the limit at six children prescribed by the definition of a Family Day Child Care Learning Home, a Provider may care for two additional children who are three years of age or older for two designated one hour periods daily upon approval by the Department.~~

(7) At least one ~~Adultadult~~ shall supervise ~~Childrenchildren~~ at all times. Such ~~Adultadult~~, if not the ~~Providerprovider~~, shall receive orientation regarding these rules; the Provider's policies regarding discipline, injuries and illnesses, and release of ~~Childrenchildren~~; the Provider's written plan for handling emergencies; and appropriate information about any ~~Child'schild's~~ specific health needs. Plans shall be made to obtain additional Adult help in cases of emergencies.

(8) Whenever Related Children or ~~children~~ Children who reside in the Home are present in the Home, the total number of children present under the age of thirteen years may not exceed twelve, and the space requirement of 35 square feet per each child present (~~Rule 13(1)(a)~~) must be met.

(a) An assistant, who must be at least 16 years of age, must be present to assist with supervision whenever:

1. More than three children under the age of 12 months are present; or
2. More than six children under the age of three years are present; or
3. More than eight children under the age of five years are present.

(b) Any such assistant who is 17 years of age or older is considered an Employee for purposes of these rules and must have a Satisfactory Records Check Determination.

(9) If ~~Children~~ children are allowed to participate in water activities where the water is over two feet in depth, the Provider or an ~~Adult~~ adult shall supervise such activities and must have successfully completed a training program in lifeguarding offered by a water-safety instructor certified by the American Red Cross or YMCA or other recognized standard setting agency for water safety instruction.

(a) For water-related activities where water is over two feet in depth, the following staff: ~~Child~~ child ratios shall be maintained:

Ages of Children	Staff: Child Ratio
Under 2 1/2	1:2
2 1/2 to 4 years	1:5
4 years & older (who cannot swim a distance of 15 yds. unassisted)	1:6
4 years & older (who can swim a distance of 15 yds. unassisted)	1:8

(b) In lieu of requiring each ~~Child~~ child four years and older to take a swimming test, the Provider may accept copies of verifications from a recognized water safety instruction organization stating that the ~~Child~~ child has successfully completed a swimming class which required the ~~Child~~ child to swim a distance of 15 yards unassisted.

(10) Provisional Employees. The A licensed Home may hire Provisional Employees. All Provisional Employees:

- (a) Must be at least 17 years of age;
- (b) Must be informed of the rules for Family Day Child Care Learning Homes and the Home's policies and procedures for the age group for which they will be providing care;
- (c) Must be informed of the Home's policies and procedures necessary to the proper performance of their job duties in compliance with the Rules for Family Day Child Care Learning Homes;

(d) Must have current evidence of successful completion of a biennial training program in cardiopulmonary resuscitation (CPR) and a triennial training program in first aid provided by certified or licensed health care professionals and which covers the provision of emergency care to infants and children if the caregiver is the only Adult on the premises or field trip;

(e) Must participate in the orientation and training required by the rules;

(f) Must ~~be able not be suffering from any physical handicap, mental health disorder or developmental disability that would interfere with the person's ability to perform adequately the assigned job duties of providing for the care and supervision of the children enrolled in the Home adequately and in accordance with these rules;~~ perform adequately the assigned job duties of providing for the care and supervision of the children enrolled in the Home

(g) Must never have shown by credible evidence, e.g., a court or jury, a department investigation or other reliable evidence to have abused, neglected or deprived a child or adult or to have subjected any person to serious injury as a result of intentional or grossly negligent misconduct. The Department may request an oral or written statement to this effect at the time of hire or at any other time. Upon said request, the Provisional Employee shall provide this statement to the Department;

(h) Must have a satisfactory Preliminary Criminal Records Check Determination as determined by the HomeCenter based on Georgia Crime Information Center (GCIC) information ~~(such as that found in a kick sheet)~~ obtained only from local law enforcement that was issued by the law enforcement agency within the immediate preceding 10 days of the hire date on file;

(i) Must not have made any material false statements concerning qualifications requirements either to the Department or to the proposed or current License Holder ~~licensee or commission holder~~;

(j) May be hired for one period of provisional employment for up to 21 consecutive calendar days. This 21 day provisional employment period may be extended until the Department issues a Records Check Determination only if the individual:

1. Submitted for a Fingerprint Records Check Determination by the Department within the 21 calendar days of provisional employment; and

2. Submitted a Fingerprint Records Check Application to the Department within the 21 calendar days of provisional employment; and

(k) May be hired as a permanent Employee by the HomeCenter only if the individual receives a satisfactory Fingerprint Records Check Determination by the Department and meets all other qualification requirements in these rules.

(11) Independent Contractors. A Home may have an independent contractor to offer consistent supplemental educational or physical activities for Children ~~children~~ in care.

(a) Such an independent contractor is an Employee of the Home for the purpose of these rules and must have a satisfactory Fingerprint Records Check Determination.

(b) Such an independent contractor is exempted from annual training and first-aid/CPR training requirements.

(c) Any independent contractor that does not offer consistent supplemental educational or physical activities for any Child ~~child~~ in care cannot be solely responsible for any Child ~~child~~ other than their own and must be under continuous direct supervision of the Provider, Home

Employee or Provisional Employee while in the presence of Children~~children~~ other than their own.

(12) Parents. The Home may have Parents occasionally assist in a classroom, chaperone or accompany a group of Children~~children~~ from the Home on a field trip.

(a) A Parent that is this type of occasional assistant is not required to obtain a Criminal Records Check Determination; however, an Employee that is age 17 or older and who is also a parent of a Child~~child~~ in care at the Home is considered an Employee for purposes of these rules and must have a satisfactory Fingerprint Records Check Determination. Furthermore, a Parent shall not be considered an Employee of the Home unless such Parent is deemed an Employee by the Home or either resides at the Home or is compensated in any fashion by the Home except through appropriate state or federal funds.

(b) No Parent shall be solely responsible for Children~~children~~ other than their own and must be under continuous direct supervision of the Provider or Home Employee while in the presence of Children~~children~~ in care other than their own.

(c) Such Parent is exempted from annual training and first-aid/CPR training requirements.

(13) Volunteers. The Home may have volunteers other than Parents help in a classroom, chaperone or accompany a group of Children~~children~~ from the Home on a field trip.

(a) Volunteers age 17 and older that provide consistent services must have a satisfactory Fingerprint Records Check Determination.

(b) No volunteer shall be solely responsible for Children~~children~~ other than their own and must be under continuous direct supervision of the Provider or Home Employee while in the presence of Children~~children~~ other than their own.

(c) Such volunteer is exempted from annual training and first-aid/CPR training requirements.

(14) Students-in-Training. The Home ~~may~~shall have Students-in-Training ~~at the Center~~.

(a) Students-in-Training age 17 and older must have a satisfactory Fingerprint Records Check Determination.

(b) No Student-in-Training shall be solely responsible for Children~~children~~ other than their own and must be under continuous direct supervision of the Provider or a Home Employee while in the presence of Children~~children~~ in care other than their own.

(c) Such Student-in-Training is exempted from annual training and first-aid/CPR training requirements.

(15) Clerical, Housekeeping, Maintenance and Other Support Staff. The Home may have qualified and sufficient direct-care, clerical, housekeeping, maintenance and other support staff to ensure full compliance with these rules without neglecting the supervision of the Children~~children~~.

(a) Other Staff That May Have Direct Contact With Children In Care. A Home may have additional staff at the Home. Any staff member that has any personal contact with any Child~~child~~ in care must:

1. Have a Satisfactory Records Check Determination as defined in these rules; and
2. May be exempted from annual training and first-aid/CPR training requirements.

(b) Other Staff That Must Not Have Direct Contact With Children In Care. The Home may have individuals at the Home to repair and/or maintain the Home while Children~~children~~ are in care ~~that have no personal contact with any child in care~~. These individuals:

1. Must have no contact with Children~~children~~ in care;
2. May not be required to obtain a Fingerprint Records Check Determination~~criminal records check determination~~, unless they have contact with Children~~children~~ in care; and
3. May be exempted from annual training and first-aid/CPR training requirements.

Authority: O.C.G.A. § 20-1A-1 *et seq.*

G. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 290-2-3-.08 entitled “Children’s Records” in its Rules and Regulations for Family Day Care Homes. This amendment shall include the following:

290-2-3-.08 Children's Records

(1) The Home~~home~~ shall maintain current and updated individual records on each Child~~child~~ in care. The Home~~home~~ shall maintain the records outlined herein while the Child~~child~~ is in care and for a period of one (1) year after such Child~~child~~ is no longer in care at the Family Day Child Care Learning Home. Such records shall include:

(a) Identifying information (Child~~child~~’s name, birth date, Parent~~parents~~ name, or guardian~~’s name if applicable~~, Home~~home~~ and business addresses, telephone numbers);

(b) Name, address and telephone number of persons including Child~~child~~’s physician to contact in emergencies;

(c) Evidence of age-appropriate immunizations, or a signed affidavit certifying that the required immunizations conflict with the religious belief of the Parent~~parent or guardian~~ or a physician statement that immunization is contraindicated;

(d) Written authorization for the Child~~child~~ to receive emergency medical treatment when the Parent~~parent or guardian~~ is not available;

(e) Documentation of any medications given as described in rule .11 (1)(e);

(f) Record of any allergies and other known medical problems;

(g) Description of accidents or serious illnesses occurring while Child~~child~~ is in the Family Child Care Learning Home ~~family day care home~~, including date, time and condition under which it occurred and the action taken;

(h) Parental or guardian agreements for transportation, field trips, swimming and/or other activities away from the Home~~home~~ if the Child~~child~~ will be participating in these activities;

(i) Name of person(s) to whom the Child~~child~~ may be released. Such information shall contain the authorized person's address, telephone numbers, relationship to Child~~child~~ and to Parent~~parent(s) or guardian~~, and other identifying information.

(j) Documentation that the Child~~child~~ has been signed in and signed out of the Family Child Care Learning Home ~~family day care home~~ at the time of each arrival and departure by the Parent~~parent, guardian or person(s) authorized by the Parent~~~~parent~~ to drop off or pick up the Child~~child~~, which includes at least the following information: Child's~~child's~~ name, date, drop-off and pick-up times, and initials of Parent~~parent, guardian or other authorized person~~, and which need not be filed in the Child's~~child's~~ individual record. The Family Child Care Learning Home ~~family day care home~~ shall ensure that Children~~children~~ are only released to authorized person(s), and the Home~~home~~ shall take necessary steps to determine that any such person(s) presenting to pick up a Child~~child~~ in care is authorized by the Parent~~parent(s) or guardian~~ of the Child~~child~~ and that person matches the identifying information provided by the Parent~~parent or guardian~~.

(2) Policies and Procedures. Each Family Child Care Learning Home ~~family day care home~~ shall establish policies and procedures, which shall be kept current, made available to the Parents~~parents~~, and used to govern the operations of the Family Child Care Learning Home ~~family day care home~~. The policies and procedures shall:

(a) Be consistent with applicable laws, including but not limited to the Americans with Disabilities Act, regulations and these rules;

(b) Include a written description of the services to be provided which specifies the following:

1. Ages of Children~~children~~ served;
2. Months of operation;
3. Days of operation;
4. Hours of operation;
5. Dates the Family Child Care Learning Home ~~family day care home~~ will be closed;
6. Admission requirements, including parental responsibilities for supplying and maintaining accurate required record information and escorting Child~~child~~ to and from the Family Child Care Learning Home ~~family day care home~~;
7. Standard fees, payment of fees, fees related to absences and vacations and other charges such as transportation, etc.; and

8. Transportation provided, if any;

(c) The policies and procedures shall also include written procedures for the following:

1. Guidance and discipline techniques;
2. Handling emergency medical care, including where the Children~~children~~ will be taken for emergency medical care;
3. Administering medication and recording noticeable adverse reactions to medication;
4. Notifying Parents~~parents or guardian~~ of their Child's~~child's~~:

- (i) Illness;
 - (ii) Injury; and
 - (iii) Exposure to a notifiable communicable disease;
5. Noticeable adverse reaction to medication(s);
6. Exclusion of sick children;
7. Exclusion of children with communicable diseases, as defined on the chart of communicable diseases which contains recommendations for the exclusion of sick children and their readmission, and is provided by the Department;
8. Protection of children in the event of:
- (i) Severe weather;
 - (ii) Fire; and
 - (iii) Physical plant problems, such as a power failure, that affect climate control, loss of water, or structural damages;
9. The transportation of ~~Children~~ children to and from school or ~~Home~~ home, if provided, to include the procedure to be followed if no one is ~~Home~~ home to receive the transported ~~Child~~ child;
10. Identification of others providing care. The ~~Provider~~ provider must inform the ~~Parents~~ parents or guardian of ~~Children~~ children in care of the names of any caregiver and their responsibilities, and the names of the persons who would be called upon in an emergency;
11. Parents' or guardian's ability to visit the Family Child Care Learning Home family day care home unannounced and at any time that their ~~Child~~ child is in care;
12. Any information requested by the ~~Parent~~ parent or guardian concerning the operation of the Family Child Care Learning Home family day care home or the care of the ~~Child~~ child, including but not limited to a description of any special procedures to be followed in caring for the child, such as any special services which the Home agrees to provide to a child with special needs. The ~~Parent(s)~~ parent(s) or guardian will be provided daily communication (verbal/written) regarding the care of the ~~Child~~ child, especially with infants, toddlers and nonverbal ~~Children~~ children. Additionally, the ~~Provider~~ provider must bring special problems or significant developments to the ~~Parent's~~ parent's or guardian's attention as soon as they arise;
13. Notification of the existence of a firearm in the Family Child Care Learning Home family day care home;
14. Notification of any changes in the regular composition of the household. The ~~Provider~~ provider must notify the ~~Parent(s)~~ parent(s) or guardian of anyone regularly on the premises, including but not limited to spouse, friend(s), relative(s), or significant other(s);
15. Notification of the existence of any pets or other animals residing in the ~~Home~~ home or on the property of the Family Child Care Learning Home family day care home; and
16. Notification of infant sleep position practices. The ~~Provider~~ provider must notify parent(s) of Sudden Infant Death Syndrome (SIDS) risk reduction practices, sleep positioning policies, and arrangements for placing all infants on their backs for sleep;

17. Documenting the Child's arrival and departure. The Parent or person(s) authorized by the Parent or guardian to drop off and pick up the Child will document each time the Parent, guardian or authorized person drops off and picks up the Child. The documentation shall include at least the following information: the date, the Child's name, the arrival and departure times, and the signature or initials of the Parent, guardian or authorized person and shall be made available to the Department in printed or written form upon request.

18. If applicable, notification of the absence of a liability insurance policy sufficient to protect its clients. If the Home is not covered by liability insurance sufficient to protect its clients, the Home must notify the Parent or guardian of each Child under the care of the program in writing. Each Parent or guardian must acknowledge receipt of such notice, and a copy of the acknowledgment shall be kept in the Child's file.

(3) Documentation of family relationships for related children, other than the Provider's own children, cared for in the Home shall be maintained and shall include a notarized statement by the related child's Parent(s) attesting to the relationship.

(4) Documentation of the non-pay status of related and unrelated children in care for whom no pay is received shall be maintained and shall include a notarized statement by such child's Parent(s) attesting to the non-pay status.

(5) Copies of satisfactory criminal records check determinations, or preliminary records check applications and (fingerprint) records check applications, if determinations are in the application process, shall be maintained in the Home by the Provider.

(6) Documentation of all required training required by these rules shall be maintained in the Home by the Provider, and shall include the title of training courses received by the Provider and any staff, the dates and the number of hours of the courses, and the names of the trainers or sponsoring organizations.

(7) If applicable, documentation of approved water and sewage disposal systems shall be maintained in the Home by the Provider.

(8) Documentation of monthly fire drills required by these rules shall be maintained in the Home.

Authority: O.C.G.A. § 20-1A-1 *et seq.*

H. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 290-2-3-.09 entitled "Children's Activities" in its Rules and Regulations for Family Day Care Homes. This amendment shall include the following:

290-2-3-.09 Children's Activities

(1) The Family Child Care Learning Home shall provide a variety of daily activities appropriate for the Children's chronological ages and developmental levels.

Children with special needs shall be integrated into the activities provided by the Family Child Care Learning Home ~~family day-care-home~~ unless contraindicated medically or by parental agreement. Activities shall be planned for each group to allow for:

- (a) Indoor and outdoor play;
 - (b) A balance of quiet and active periods;
 - (c) A balance of supervised free choice and caregiver-directed activities;
 - (d) Individual, small group, and large group activities;
 - (e) Large muscle activities, such as, but not limited to, running, riding, climbing, balancing, jumping, throwing, or digging;
 - (f) Small muscle activities, such as, but not limited to, building with blocks or construction toys, use of puzzles, nesting or stacking toys, pegs, lacing, sorting beads, or clay;
 - (g) Language experiences, such as, but not limited to, listening, talking, rhymes, finger plays, stories, use of film strips, recordings or flannel boards;
 - (h) Arts and crafts, such as, but not limited to, painting, coloring, cutting, or pasting;
 - (i) Dramatic play, such as, but not limited to, play in a Homehome center, with dolls, puppets, or dress up;
 - (j) Rhythm and music, such as, but not limited to, listening, singing, dancing, or making music; and
 - (k) Nature and science experiences, such as, but not limited to, measuring, pouring, activities related to the "world around us" such as nature walks, plants, leaves or weather, or experiences in using the five senses through sensory play.
- (2) Children shall be helped to develop skills in all areas (washing, dressing, toileting, etc.) appropriate to the age and ability of the child.
- (3) Children shall spend some time of each day outside when the children's health and the weather permits.
- (4) There shall be a supervised nap period during the day for preschool age children.
- (5) Children less than three (3) years of age shall not spend more than one-half (1/2) hour of time consecutively in confining equipment, such as swings, highchairs, jumpseats, carriers or walkers. Children shall use such equipment only when they are awake. Such children shall be allowed time to play on the floor daily.
- (6) Supervised tummy time on the floor shall be provided daily for each infant while the infant is awake.
- (7) The use of entertainment media, such as television programs or video tapes, and computer games shall be limited to programs, tapes, and software that are produced for the benefit of audiences comprised of young children. Such uses of entertainment media shall be used only in addition to other activities, shall not be the primary source of children's activities, and should be limited to no more than two hours daily.

(8) The ~~Provider~~provider shall not engage in or allow children or other adults to engage in activities that could be detrimental to a child's health or well-being such as, but not limited to, horse play, rough play, wrestling, and picking up a child in a manner that could cause injury.

Authority: O.C.G.A. § 20-1A-1 *et seq.*

I. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 290-2-3-.10 entitled “Nutrition and Food Services” in its Rules and Regulations for Family Day Care Homes. This amendment shall include the following:

290-2-3-.10 Nutrition and Food Services

- (1) Children shall be served all meals and snacks scheduled for the period of time in which they are present in the ~~Home~~home. This includes breakfast or a morning snack, lunch, an afternoon snack, supper (if the ~~Home~~home offers evening care), and an evening snack prior to bedtime (if the ~~Home~~home offers night time care).
- (2) Meals and snacks with serving sizes dependent upon the age of the children shall be nutritious, well balanced, and varied. Lunch and supper meals shall consist of vegetables or fruit or both; meat, poultry, fish, cheese, eggs, or protein substitute; bread; and milk unless the child has a specific health reason for prohibiting milk. Caregivers shall not use food to reward or punish children.
- (3) Powdered nonfat dry milk shall not be used except for cooking purposes.
- (4) The ~~Provider~~provider shall secure from the ~~Parents~~parents infant formula and a feeding plan for children under 1 year of age.
- (5) Infant formula bottles shall be labeled with the individual child's name. Any unused formula or milk shall be discarded or returned to the ~~Parent~~parent at the end of the day.
- (6) Infants under six months of age and older children who cannot hold their own bottles or sit alone shall be held during feeding. Baby bottles shall never be propped and the infant's head shall be elevated while feeding.
- (7) Food shall be in sound condition, free from spoilage and contamination, and shall be safe for human consumption.
- (8) All perishable and potentially hazardous foods shall be refrigerated at a temperature of 40 degrees or below and shall be served promptly after cooking. Hot foods shall be maintained at a temperature of 140 degrees or above except during serving.
- (9) Food stored in containers such as cans, jars, and boxes shall be stored above the floor on clean surfaces.
- (10) Garbage shall be stored in trash containers with lids and emptied and cleaned as needed. Areas around outdoor containers shall be kept clean.
- (11) Chipped or cracked dishes shall not be used.
- (12) Food preparation surface areas shall be nonporous with no cracks or unsealed seams.

(13) Food preparation areas and equipment shall be kept clean and free of accumulation of dust, dirt, food particles, and grease deposits.

(14) The person preparing meals shall wash their hands and arms thoroughly with soap and warm water before starting food service work and as often as necessary during food preparation and serving to remove soil and contamination.

(15) Non-disposable dishes and silverware shall be properly cleaned by pre-rinsing, or scraping, washing, sanitizing and air drying.

(16) Children shall not share eating or drinking utensils.

Authority O.C.G.A. Sec. 20-1A-1 *et seq.*

J. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 290-2-3-.11 entitled “*Health, Safety, and Discipline*” in its *Rules and Regulations for Family Day Care Homes*. This amendment shall include the following:

290-2-3-.11 Health, Safety, and Discipline

(1) Health.

(a) The Department's current communicable disease chart of recommendations for exclusion of sick children from the Homehome and their readmission shall be followed. Such chart shall be provided by the Department.

(b) Age appropriate immunization, or an affidavit or physician's statement as described in these rules Rule 290-2-3-.08(1)(c), shall be required for each preschool age Childchild upon admission to the Homehome or within 30 days thereafter.

(c) Parent or guardian of any Childchild who becomes ill or is injured while in care shall be notified immediately of any illness or injury requiring professional medical attention, or any illness which may not require professional medical attention but which produces symptoms causing moderate discomfort to the child, such as, but not limited to, any of the following: elevated temperature, vomiting or diarrhea.

(d) The Homehome shall obtain emergency medical services when required by a child's condition.

(e) Except for first aid and as authorized under Georgia law, personnel shall not dispense prescription or nonprescription medications to a Childchild without specific written authorization from the Child's child's physician or Parent, ~~parent or guardian~~. All medications shall be stored as authorized under Georgia law or in accordance with the prescription or label instructions and kept in places that are inaccessible to children. Each dose of medication given to a Childchild shall be documented showing the Child's child's name, name of medication, date and time given, and the name of the person giving the medication.

(f) The Homehome and any vehicle used by the Homehome for transportation of Childrenchildren shall have a first aid kit which shall at least contain: scissors, tweezers, gauze pads, thermometer, adhesive tape, band-aids, insect-sting preparation, antiseptic cleaning solution, antibacterial ointment, bandages, disposable rubber gloves, protective eyewear,

facemask, and cold pack. The first aid kit, together with a first aid instruction manual which must be kept with the kit at all times, shall be stored in a central location so that it is not accessible to ~~Children~~ but is easily accessible to the ~~Provider~~ and staff. The ~~Home~~ must also maintain written directions for the use of universal precautions for handling blood and bodily fluids. The directions on the use of universal precautions must be kept with the first aid kit at all times.

(g) Diapers shall be changed in the ~~Child's~~ own crib or on a nonporous surface which is cleaned with a disinfectant and dried with a single use disposable towel after each diaper change.

(h) Soiled diapers and linens shall be disposed of in a closed container.

(i) If used, toilet potty chairs shall after each use be emptied by disposal in a flush toilet, cleaned with a disinfectant, and stored in the bathroom. If a sink is used, it shall be disinfected after each use.

(j) Personnel shall wash their hands with liquid soap and warm running water:

1. Immediately before and after each diaper change;
2. Immediately upon the first ~~Child's~~ arrival in the ~~Home~~ for care and upon re-entering the ~~Home~~ after outside play;
3. Before and after dispensing oral medications and applying topical medications, ointments, creams or lotions, handling and preparing food, eating, drinking, preparing bottles, feeding each child, assisting children with eating and drinking; and
4. After toileting or helping children with toileting, using tobacco products, handling garbage and organic waste, touching animals or pets, handling bodily fluids, such as, but not limited to, mucus, saliva, vomit or blood, or contamination by any other means.

(k) Children's hands shall be washed with liquid soap and warm running water:

1. Immediately upon arrival for the day and re-entering the child care area after outside play;
2. Before and after eating meals and snacks, handling or touching food, and playing in water;
3. After toileting and diapering, playing in sand, touching animals or pets, contact with bodily fluids such as, but not limited to, mucus, saliva, vomit or blood, and after contamination by any other means; and
4. Washcloth handwashing is permitted for infants when the infant is too heavy to hold for handwashing or cannot stand safely to wash hands at a sink and for children with special needs who are not capable of washing their own hands. An individual washcloth shall be used only once for each child before laundering.

(l) No Smoking. Smoking is prohibited on the premises of a Home during the hours of operation and no smoking signs must be posted. Smoking is also prohibited in any vehicle used to transport children during the hours that the Home is in operation. When children are present for care, providers, employees, and any other persons shall not smoke or use tobacco except in areas which are totally separated from areas used for child care. If smoking occurs in other areas of the home, the provider shall so advise parent or guardian.

(m) Children shall be kept clean, dry and comfortable.

(n) Pets in the Homehome shall be vaccinated in accordance with the requirements of the local county Boards of Health. Unconfined pets shall not be permitted in child care areas when any Child is~~children are~~ present except for supervised learning experiences.

(o) Pets and all other animals shall be controlled to assure that proper sanitation of the premises is maintained and animals are not a hazard to the children, personnel or other visitors. No animal, such as but not limited to, pit bull dogs, ferrets, and poisonous snakes, which may have a vicious propensity, shall be permitted on the Family Child Care Learning Home ~~family day care home~~ premises at any time there are children on the premises. Horses or other farm animals shall not be quartered on any property over which the Provider~~provider~~ exercises any control that is located within five hundred (500) feet of the building in which the Family Child Care Learning Home ~~family day care home~~ is located.

(2) Safety.

(a) A Homehome shall have a written plan for handling emergencies, including but not limited to fire, severe weather, loss of electrical power or water, and death, serious injury or loss of a child, which may occur at the Homehome. No Homehome personnel shall impede in any way the delivery of emergency care or services to a child by licensed or certified emergency health care professionals.

(b) An operable telephone shall be readily available in the Homehome with the following telephone numbers posted in a conspicuous place next to the telephone. In those areas of the state serviced by the 911 emergency number, 911 may be posted in lieu of the phone numbers required for 2., 3., and 4. below:

1. A physician or hospital;
2. An ambulance or rescue squad service;
3. The local fire department;
4. The local police department;
5. The county health department; and
6. The regional poison control center.

(c) The Homehome shall practice fire drill procedures with children at least monthly. Such drills shall be documented and maintained on file for one year.

(d) Children shall not have access to hanging cords or other hazardous objects.

(e) Clear glass doors shall be marked to avoid accidental impact.

(f) Poisons, medicines, cleaning agents, razors, aerosol cans and other potential hazardous materials shall be stored out of reach of children or in locked cabinets.

(g) Firearms shall be stored so they are not accessible to children.

(h) At least one UL Approved smoke detector shall be on each floor of the Homehome and such detectors shall be maintained in working order. At least one 2-A:10-B:C fire extinguisher shall be kept in the child care area to be located no more than thirty feet from the kitchen. The extinguisher shall be maintained in working order and shall be inaccessible to the children.

(i) Flammable liquids, such as gasoline or kerosene, shall not be stored inside the Homehome.

(j) If children are transported in a vehicle by the ~~Provider~~provider or a ~~Home's~~home's employee, the driver shall have a current driver's license and children shall be restrained by either individual seat belts or appropriate child restraints in accordance with current state and federal laws and regulations.

(k) No child shall be left unattended in a motor vehicle.

(l) If children are transported, written authorization for the child to receive emergency medical treatment when the ~~Parent~~parent or guardian is not available, as required by 2900-2-3-.08(1)(d), shall be maintained in the vehicle.

(m) If a ~~Provider~~provider does not carry liability insurance coverage sufficient to protect its clients, the ~~Provider~~provider shall post that fact in a conspicuous place in the program. Such notice shall be in at least ½ inch letters. A ~~Provider~~provider that fails to post may be subject to a civil fine of \$1,000.00.

(3) Discipline. Disciplinary actions used to correct a ~~Child's~~child's behavior, guidance techniques and any activities in which the ~~Children~~children participate or observe at the ~~Home~~home shall not be detrimental to the physical or mental health of any child.

(a) A ~~Provider~~provider or a ~~Home's~~home's ~~Provisional Employees or Employees~~employees shall not:

1. Physically or sexually abuse a child, or engage in or permit others to engage in sexually overt conduct in the presence of any ~~Child~~child enrolled in the ~~Home~~home; or

2. Inflict corporal/physical punishment upon a ~~Child~~child; or

3. Shake, jerk, pinch or handle roughly a ~~Child~~child; or

4. Verbally abuse or humiliate a ~~Child~~child which includes, but is not limited to, the use of threats, profanity, or belittling remarks about a ~~Child~~child or his family; or

5. Isolate a ~~Child~~child in a dark room, closet, or unsupervised area; or

6. Use mechanical or physical restraints or devices to discipline ~~Children~~children; or

7. Use medication to discipline a ~~Child~~child or to control ~~Children's~~children's behavior without written medical authorization issued by a licensed professional and given with the ~~Parent's~~parent's or guardian's written consent.

8. Discipline a ~~Child~~child by ~~unreasonably~~ restricting ~~unreasonably~~ a ~~Child~~child from going to the bathroom; or by punishing toileting accidents; or by force feeding a ~~Child~~child; or by not feeding a ~~Child~~child regularly scheduled meals and/or snacks; or by forcing or withholding naps; or by allowing children to discipline or humiliate other children; or by confining a child for disciplinary purposes to a swing, high chair, infant carrier, walker or jump seat.

9. Commit any criminal act, as defined under Georgia or federal law, in the presence of any ~~Child~~child enrolled in the ~~Home~~home.

Authority: O.C.G.A. § 20-1A-1 *et seq.*

K. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 290-2-3-.12 entitled "Equipment and Supplies" in its Rules

and Regulations for Family Day Care Homes. This amendment shall include the following:

290-2-3-.12 Equipment and Supplies

(1) The Homehome shall provide a variety of age-appropriate toys, books, and play equipment and materials to insure that each child shall have opportunity to experience and participate in a variety of activities.

(2) Individual or disposable wash cloths and towels shall be provided.

(3) Furniture and equipment shall be kept clean and in a safe usable condition.

(4) All indoor and outdoor furniture, activity materials, and equipment shall be:

(a) Used in a safe and appropriate manner by each Provider, Provisional Employee and Employee and child in attendance;

(b) Used in accordance with the manufacturer's instructions, recommendations, and intended use;

(c) Free from hazardous conditions such as, but not limited to, sharp rough edges or toxic paint;

(d) Kept clean;

(e) Placed so as to permit the children's freedom of movement and to minimize danger of accident and collision;

(f) Secured if equipment and furniture is of a weight or mass that could cause injury from tipping, falling, or being pulled or pushed over. Potentially unstable equipment and furniture that might injure a child if not secured include, but are not limited to, televisions, chests of drawers, bookcases, shelving, cabinets and fish tanks. Examples of items not required to be secured include, but are not limited to, child-sized tables and chairs, rocking chairs, and cribs.

(5) Toys shall be stored on low, open shelves accessible to children in each room or assigned area. Toys that launch projectiles, such as dart guns, pop guns, slingshots, etc., shall not be allowed in the Homehome, and balloons shall not be accessible to preschool children.

(6) Toys for Children Under Three. Toys for children under three (3) years of age shall also be age-appropriate. Those toys shall be:

(a) Non-toxic and lead-free;

(b) Too large to be swallowed by a child and not capable of causing asphyxiation or strangulation;

(c) Free of sharp pieces, edges or points of small parts which may be pried off by a child;

(d) Free of rust;

(e) Easily cleaned with a disinfectant daily.

(7) Tables. There shall be table space provided for each child who is able to sit at a table unassisted. An appropriately sized chair or bench shall be provided for each child who is not an infant and who is able to use a chair or bench.

L. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 290-2-3-.13 entitled “*Building and Grounds*” in its *Rules and Regulations for Family Day Care Homes*. This amendment shall include the following:

290-2-3-.13 Building and Grounds

(1) The Home~~home's~~ building shall be kept clean and free from obvious hazards to the children's health and safety.

(a) The areas used for child care shall provide a minimum of 35 square feet of usable floor space per child.

(b) Basement areas in excess of 25 linear feet from a window shall not be used for housing Children~~children~~.

(c) Furniture and equipment shall be arranged so as not to interfere with exits.

(d) The Home~~home~~ shall be kept free of fire hazards and unnecessary or excessive combustible material.

(e) When in use, radiators, open fire, oil or wood burning stoves, floor furnaces and similar hazards shall have barriers or screens to prevent children from being burned.

(f) Unvented fuel fired heaters shall not be used unless equipped with an oxygen depletion safety shut off system.

(g) Multiple plugs and electric extension cords shall not be used. Electrical outlets within reach of children shall be plugged or covered.

(h) Fans shall be positioned or installed so as to be inaccessible to the children.

(i) Measures shall be utilized to prevent the presence of rodents, flies, roaches and other vermin on the premises. Windows and doors used for ventilation shall be screened.

(j) Water supply and sewage disposal systems, if other than approved county or city systems, shall be approved by the proper authority having jurisdiction.

(2) Outside grounds and play areas shall be kept clean and free of obvious hazards to the children's health and safety.

(a) Outside play areas shall be free of hazards such as, but not limited to exposed sharp edges of concrete or equipment, broken glass, debris, open drainage ditches, holes and stagnant water.

(b) Climbing and swinging equipment that are not portable shall be securely anchored to eliminate accidents or injuries and have a resilient surface beneath the equipment and the fall zone from such equipment which is adequately maintained by the Family Child Care Learning Home~~family day care home~~ to assure continuing resiliency.

(c) Such outside play areas shall be protected from traffic or other hazards by fencing or other barriers at least four feet in height and approved by the Department~~department~~. Fencing material

shall not present a hazard to children. A fence shall be provided around swimming pools to make them inaccessible when not in use.

Authority O.C.G.A. Sec. 20-1A-1 *et seq.*

M. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 290-2-3-.14 entitled “Reporting” in its Rules and Regulations for Family Day Care Homes. This amendment shall include the following:

290-2-3-.14 Reporting

(1) Within twenty-four (24) hours or the next work day, the Home shall report the following to the Department:

- (a) Any death of a Child while in the care of the Home;
 - (b) Any serious illness or injury requiring hospitalization or professional medical attention other than first aid administered by the Provider, Provisional Employee or Employee of the Home;
 - (c) Any fire;
 - (d) Any structural disaster;
 - (e) Closing of the Home; and
 - (f) Any situation when a Child in care becomes missing, such as, but not limited to, a Child who is left on a vehicle, a Child who leaves the building, playground, or property, or a Child who is left behind on any trip; and
 - (g) Any arrest or change in the Satisfactory Records Check Determination of any Provider, Employee (including any resident of the Home age 17 or older), or Provisional Employee of the Home.
- (2) Any suspected incident of child abuse, neglect or deprivation shall be reported to both the Department and also the local county Department of Family and Children Services in accordance with O.C.G.A. Sec. 19-7-5.
- (3) Any cases or suspected cases of notifiable communicable diseases shall be reported to both the Department and also the local county health department in accordance with rules of the Department regarding Notification of Disease, Chapter 290-5-3.

Authority O.C.G.A. Sec. 20-1A-1 *et seq.*

N. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 290-2-3-.15 entitled “Enforcement and Penalties” in its Rules and Regulations for Family Day Care Homes. This amendment shall include the following:

290-2-3-.15 Enforcement and Penalties

No Family Day Child Care Learning Home shall operate in the State without a License ~~Certificate of Registration~~ that has been issued by the Department. A License ~~Registration~~ to operate a Family Day Child Care Learning Home may be denied, revoked, restricted or suspended, if applicable, in accordance with the following:

(a) ~~Refusal of a License, Commission or Registration.~~ The Department shall refuse to issue a License ~~Registration~~ upon a showing of:

1. Noncompliance with the Rules and Regulations for Family Day Child Care Learning Homes which are designated in writing to the facilities as being related to children's health and safety; or
2. Flagrant and continued operation of an unregistered or unlicensed Family Day Child Care Learning Home in contravention of the law; or
3. Prior License ~~license, commission or~~ Registration denial or revocation within one (1) year of application; or
4. Where the Department determines that a License applicant knows or should reasonably know that any actual or potential Provider, Employee or Provisional Employee has a Criminal Record and allows such individual to either reside at the Home or be present at the Home while any child is present for care; or
5. Where the Department determines that a License applicant knowingly or intentionally violates other provisions relating to Criminal Records Checks.

(b) ~~Refusal of a License, Commission or Registration.~~ The Department may refuse to issue a License ~~Registration~~ upon a showing of:

1. The applicant or the agent of the applicant denies the Department representative access to the Family Day Child Care Learning Home for the purposes of determining whether a License ~~Registration~~ will be granted; or
2. The ~~owner~~ applicant, Provisional Employees or Employees of the Family Day Child Care Learning Home do not undergo the applicable records check ~~check~~ and receive Satisfactory Records Check Determination ~~satisfactory determinations~~; or
3. The applicant or agent of the applicant knowingly makes any false statement of material information in connection with the application for License ~~Registration~~, or in the alteration or falsification of records maintained by the applicant in connection with the application for License ~~Registration~~; or
4. The applicant or alter ego of the applicant has transferred ownership or governing authority of a Family Day Child Care Learning Home, ~~Group Day Care Home~~ or a Child Care Learning Center within one (1) year of the date of the new application when such transfer was made in order to avert denial, suspension, restriction or revocation of a License ~~license, commission or Registration~~; or

5. The applicant or alter ego of the applicant or persons in management or control of the Family Day Child Care Learning Home have failed to pay a civil penalty or enforcement fine previously imposed by the Department.

(c) Revocation of a License. The Department shall revoke any License in the following instances:

1. Where the Department determines that a License Holder knows or should reasonably know that any actual or potential Provider, Provisional Employee or Employee has a Criminal Record and allows such individual to either reside at the Home or be present at the Home while any Child is present for care; or

2. Where the Department determines that a License Holder knowingly or intentionally violates other provisions relating to Criminal Records Checks.

~~(d)(e)~~ Revocation of a License, Commission or Registration. The Department may revoke a License Registration in the following instances:

1. Where the Department's representative is refused access to the Family Day Child Care Learning Home for the purpose of determining whether the Family Day Child Care Learning Home is in compliance with these rules; or

2. Where the Department determines that a non-correctable deficiency, abuse or dereliction exists in the operation or management of the Family Day Child Care Learning Home; or

3. Where the Department determines that a correctable abuse, dereliction or deficiency in the operation or management of the Family Day Child Care Learning Home has not been corrected within a reasonable time after:

(i) Having been brought immediately to the attention of the administrator of the Family Day Child Care Learning Home by a Department representative; and

(ii) Having been advised in writing of the deficiencies and setting a time not to exceed ten (10) Working days for the filing of an acceptable Plan of Correction~~plan of correction~~; and

(iii) The Provider fails to submit an acceptable Plan of Correction~~plan of correction~~ to the Department within the specified time limits. In determining whether a Plan of Correction~~plan of correction~~ is acceptable, the Department will consider the extent of the deficiencies, whether the Provider has previously been cited for the same deficiencies, the history of compliance including whether the Provider has complied with previous Plans of Correction~~plans of correction~~, and whether the correction required can be maintained over time; or

4. The Provider fails to follow the accepted Plan of Correction~~plan of correction~~; or

5. Where the Provider allows an Employee or Provisional Employee with an unsatisfactory Preliminary Records Check Determination to reside in or be present at the Home while any Child is present for care~~of the Home does not undergo the applicable records checks and receive Satisfactory Records Check Determination~~; or

6. Where there is a flagrant abuse, dereliction or deficiency that constitutes shocking intentional misconduct; or

7. Where the Provider, an Employee or Provisional Employee of the Home knowingly makes any false statement of material information in connection with any statement made or on any documents submitted to the Department as part of an inspection, survey, or investigation, or in the alteration or falsification of records maintained by the Home Provider; or

8. Where the Provider or alter ego of the Provider~~provider~~ fails to pay a civil penalty or enforcement fine imposed by the Department after the time period for requesting an appeal of the notice of imposition of civil penalty or enforcement fine has expired and ~~the Provider has not submitted an appeal~~ no appeal was submitted within required time frame in accordance with these rules and regulations; or

9. Where the Provider fails to pay a civil penalty or enforcement fine imposed by the Department after ~~the licensee has submitted~~ submitting a timely appeal of the notice of imposition of civil penalty or enforcement fine and the imposition of the civil penalty or enforcement fine has been affirmed in accordance with the Georgia Administrative Procedure Act, O.C.G.A. Sec. 50-13-1 et seq., and applicable law.

~~(c)~~(d) Suspension of a License Registration. The Department may suspend the License Registration to operate a Family Day Child Care Learning Home in the following instances:

1. Where the Provider, an Employee or a Provisional Employee of a Family Day Child Care Learning Home does not undergo the applicable criminal records checks and receive Satisfactory Records Check Determinations, or

2. Where the Department finds that the public health, safety or welfare imperatively requires emergency action and incorporates a finding to this effect in its order summarily suspending the license pending proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.

~~(f)~~(e) Restriction of a License Registration. The Department may restrict or limit a License Registration from providing certain kinds of care or services to children or limiting the number and/or age of the children who may be served if the Department determines that the Provider either cannot comply with these rules or has not complied with these rules.

~~(g)~~(f) Emergency Order. Notwithstanding other remedies available to the Department which may be pursued at the same time, the Commissioner or his/her designee may order the emergency placement of a monitor or monitors in a Family Day Child Care Learning Home in accordance with the following:

1. The Department's rules and regulations are being violated which threaten the health, safety, or welfare of Children~~children~~ in care and when one or more of the following conditions are present:

(i) The Family Day Child Care Learning Home is operating without a License ~~license, commission or Registration~~; or

(ii) The Department has denied the License Registration or has initiated action to revoke the existing License Registration of the Family Day Child Care Learning Home; or

(iii) Children are suspected of being subjected to injury or life-threatening situations or the health or safety of a child or children is in danger.

2. A monitor may be placed in a Family Day Child Care Learning Home for no more than ten (10) consecutive calendar days, during which time the monitor shall observe conditions and regulatory compliance with any recommended remedial action of the Department. Upon expiration of the ten (10) day period, should conditions warrant, the initial ten (10) day period may be extended for an additional ten (10) day period. The monitor shall report to the Department. The monitor shall not assume any administrative responsibility within the Family Day Child Care Learning Home, nor shall the monitor be liable for any actions of the Family Day Child Care Learning Home. The salary and related costs and travel and subsistence allowance as defined by Department policy of placing a monitor in a Family Day Child Care Learning Home shall be reimbursed to the Department by the Family Day Child Care Learning Home, unless the order placing the monitor is determined to be invalid in a contested case or by final adjudication by a court of competent jurisdiction, in which event the costs associated with the monitor shall be paid by the Department.

3. The emergency order shall contain the following:

- (i) The scope of the order;
- (ii) The reasons for the issuance of the order;
- (iii) The effective date of the order if other than the date the order is issued;
- (iv) The person to whom questions regarding the order are to be addressed; and
- (v) Notice of the right to a preliminary hearing.

4. Unless otherwise provided in the order, an emergency order shall become effective upon its service to the owner of the Family Day Child Care Learning Home or any other agent, Provisional Employee, Employee, or person in charge of the Family Day Child Care Learning Home at the time of the service of the order.

5. The request for a preliminary hearing shall be made in writing within five (5) days from the time of service, excepting weekends. The request must be made to the representative of the Department designated in the order. Unless a request is made to appear in person, the preliminary hearing shall consist of an administrative review of the record, written evidence submitted by the Family Day Child Care Learning Home affected, and a preliminary written argument in support of its contentions.

6. If a request is made to appear in person at the preliminary hearing, the Family Day Child Care Learning Home shall provide the name and address of the person or persons, if any, who will be representing the Family Day Child Care Learning Home in the preliminary hearing.

7. Upon receipt of a request for a preliminary hearing, the Department shall set and give notice of the date, time and location of the preliminary hearing. The preliminary hearing shall be held as soon as possible after a request therefore but in no event later than seventy-two (72) hours after such request, provided that a Family Day Child Care Learning Home may request that such hearing be held earlier; provided, however, that in no event will a hearing be held on a weekend or holiday.

8. If a personal appearance is requested, the preliminary hearing shall consist of a review of the evidence in the record, any additional evidence introduced at the hearing, and any arguments made. A recording shall be made of the hearing.

9. The Department shall, where practicable, issue an immediate oral order and shall, in all instances, issue a written order within four (4) business days after the close of the hearing.

10. Pending final appeal of the validity of any emergency order issued as provided for pursuant to O.C.G.A. Sec. 20-1A-13, such emergency order shall remain in full effect until vacated or rescinded by the Commissioner or his/her designee.

11. The Department is not precluded from taking any other actions permitted by other laws or regulations during the time that an emergency order is in force.

~~(h)~~(g) Right to a Hearing. The Department's action revoking or refusing to renew or issue a License Registration required pursuant to O.C.G.A. Sec. 20-1A-1 et seq. or any other adverse action, such as the imposition of an enforcement fine, the restriction or suspension of a License Registration, shall be preceded by notice and opportunity for a hearing and shall constitute a contested case within the meaning of the Georgia Administrative Procedure Act, O.C.G.A. Sec. 50-13-1 et seq., except that only thirty (30) days' notice in writing from the Commissioner's designee shall be required prior to License license, commission or Registration revocation and except that the hearing held relating to such action by the Department may be closed to the public if the hearing officer determines that an open hearing would be detrimental to the physical or mental health of any child who will testify at that hearing.

1. In connection with the Department instituting proceedings to revoke, suspend, restrict or refuse to renew or ~~restrict~~ a previously issued License Registration, the Department shall provide notice sent by certified mail setting forth the facts or conduct which has warranted the Department's action. The notice shall inform the Provider of the opportunity to demonstrate that the Homeregistration holder was in full compliance with all lawful requirements for the retention of the License Registration at the time that the facts or conduct warranting the revocation, suspension or restriction action allegedly occurred. However, this notice shall not be required in the following instances:

(i) The Department finds that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, in which case summary suspension of the License Registration may be ordered pending proceedings for revocation or suspension or other action, which proceeding shall be promptly instituted and determined; or

(ii) The Department's order is expressly required, by a judgment or a statute, to be made without the right to or hearing or continuance of any type.

2. The notice of revocation, suspension or restriction~~Restriction~~ of a License registration becomes effective thirty (30) days from the day of notice unless the License registration holder requests a hearing. A request for a hearing must be made in writing within ten (10) days of receipt of the notice of revocation, suspension or restriction.

~~(i)~~(h) Notice of Hearing. If the License Holder~~registration holder~~ requests a hearing, a notice of hearing shall be mailed or served personally on the Provider. The notice shall contain the following:

1. A statement of the date, time, place and nature of the hearing;

2. A statement of the legal authority and jurisdiction under which the hearing is to be held;

3. A reference to the particular section of the statutes and rules involved;

4. A short and plain statement of the matters asserted. The Department may refer to any child that is the subject of a deficiency or violation in the notice by the child's initials. The name of the child so referenced will be released orally to the License Holder~~holder of the license, commission or Registration~~ upon written request to the Department. If the Department is unable to state the matters in detail at the time, the notice may be limited to a statement of the issues involved. Thereafter, upon application approved by the hearing officer, a more definite and detailed statement shall be furnished; and

5. A statement as to the right of any party to subpoena witnesses and documentary evidence through the Department.

~~(j)~~⁽ⁱ⁾ Inspection Warrants. If a Department representative is denied entrance to a Family Day Child Care Learning Home which is believed to be subject to licensure or Registration, an application for an inspection warrant may be made by the Department to a court of competent jurisdiction and, if granted, used to gain entry to that Family Day Child Care Learning Home.

~~(k)~~^(j) Injunctive Relief. The Department may without regard to the availability of other remedies, including administrative remedies, seek an injunction against the continued operation of a Family Day Child Care Learning Home without a License Registration or the continued operation of a Family Day Child Care Learning Home in willful violation of O.C.G.A. Sec. 20-1A-1 et seq. or of any regulation of the Department or in violation of any other order of the board or of the Department.

~~(l)~~^(k) Criminal Penalties. The criminal penalties which may be imposed for violation of these rules are as follows:

1. Any person who violates the provisions of O.C.G.A. Sec. 20-1A-1 et seq. or who hinders, obstructs, or otherwise interferes with any representative of the Department in the discharge of that person's official duties in making inspections or in investigating complaints shall be guilty of a misdemeanor.

2. Any person who shall make, utter, execute, or submit to the Department any oral or written representation, knowing the same to be false, for the purpose of obtaining anything of value, including any service, shall be guilty of a misdemeanor.

3. Any person who operates an early care and education program Family Day-Care Home which operates without a currently valid License~~license, commission, or Registration~~ issued by the Department is subject to the provisions O.C.G.A. Sec. 20-1A-10(t) which provides that such person shall be guilty of a misdemeanor and, upon conviction, shall be punished by imposition of ~~operating a Family Day-Care Home without a~~ license, commission or Registration, for a fine of not less than fifty dollars (\$50) nor more than two hundred dollars (\$200) or imprisonment not exceeding 12 months, or both, for each offense. Each day of operation without a License~~license, commission or Registration~~ constitutes a separate criminal offense.

~~(m)~~^(l) Enforcement Fines. The Department may assess an enforcement fine of up to five hundred dollars (\$500) per day for each rule violation, not to exceed a total of twenty-five thousand dollars (\$25,000). The Department may assess enforcement fines in accordance with the following:

1. A fine, not exceeding five hundred dollars (\$500) per day for each rule violation, may be assessed by the Department against any Family Day Child Care Learning Home Provider who:

(i) Violates any licensing, ~~commissioning or registering~~ provision of O.C.G.A. Sec. 20-1A-1 et seq. or any rule, regulation, or order issued under O.C.G.A. Sec. 20-1A-1 et seq. or any term, condition, or limitation of any License, ~~commission or certificate of Registration~~ under O.C.G.A. Sec. 20-1A-1 et seq. thereby subjecting a child in care to injury or a life-threatening situation; or

(ii) Commits any violation for which a License license, ~~commission or Registration~~ may be revoked.

2. If any violation is a continuing one, each day of such violation will constitute a separate violation for the purpose of computing the applicable enforcement fine.

3. Whenever the Department proposes to subject a Provider to the imposition of an enforcement fine, it shall notify such Provider in writing. The notice shall set forth the following:

(i) The date, facts, and nature of each act or omission with which the Provider is charged;

(ii) The specific and particular provisions of the Official Code of Georgia Annotated section, the rule, regulation, order, and License license, ~~commission or Registration~~ involved in the violation;

(iii) Each fine which the Department proposes to impose and its amount;

(iv) That the Provider has an opportunity to show in writing, within ten (10) days of the receipt of the notice, why such fine should not be imposed;

(v) That the failure to pay the enforcement fine, subsequently determined by the Department, if any, may result in collection through a civil action (lawsuit); and

(vi) That the Provider also has the right to appeal the imposition of the enforcement fine pursuant to the Georgia Administrative Procedure Act, O.C.G.A. Sec. 50-13-1 et seq., by filing a timely request for a hearing within ten (10) days of receipt of the notice.

4. The written notice of the intention to impose an enforcement fine shall be sent by registered or certified mail by the Department to the last known address of such Provider.

5. The amount of the enforcement fine will be assessed in accordance with the following:

(i) A fine of five hundred dollars (\$500) per day for each rule violation may be assessed for any violation of these rules which has resulted in a disabling or permanent injury or the death of a child;

(ii) A fine ranging from three hundred dollars (\$300) to four hundred ninety-nine dollars (\$499) per day for each rule violation may be assessed for any violation of these rules which has resulted in an injury or harm to a child but has left no disabling or permanent physical damage;

(iii) A fine ranging from fifty dollars (\$50) to two hundred ninety-nine dollars (\$299) per day for each rule violation may be assessed for any violation of these rules which demonstrates a reckless and serious disregard for the physical or mental health or safety of a Childchild in care but which may or may not result in physical injury to a child or for any other violation of these rules for which a License license, ~~commission or Registration~~ may be revoked.

6. The Department will consider in assessing an enforcement fine the severity of the rule violation, the duration of noncompliance, the holder of the ~~License's license, commission or Registration's prior licensure history,~~ and the voluntary reporting of the violation for which the fine is being imposed on the ~~License licensee, commission holder or applicant registrant.~~

7. The assessment of an enforcement fine will not preclude the Department from taking any additional actions authorized by law or regulation including but not limited to ~~License licensee, commission or Registration~~ restriction, suspension, revocation, emergency monitors or the seeking of an injunction against the continued operation of the Family Day Child Care Learning Home.

~~(11)(m)~~ Complaints. All complaints concerning ~~unlicensed/unregistered~~ Family Day Child Care Learning Homes may be submitted to the Department by telephone, letter, e-mail, facsimile or personal conference. Complaints will be investigated by a Department representative, if appropriate. A written report of the findings of the investigation will be sent to the complainant upon request where authorized by law.

Authority O.C.G.A. Sec. 20-1A-1 *et seq.*

O. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 290-2-3-.16 entitled “*Waivers and Variances*” in its *Rules and Regulations for Family Day Care Homes*. This amendment shall include the following:

290-2-3-.16 Waivers and Variances

The ~~Department~~department may, in its discretion, grant waivers and variances of specific rules upon application or petition being filed on forms provided by the ~~Department~~department. The ~~Department~~department may establish conditions which must be met by the home in order to operate under the waiver or variance granted. Waivers and variances may be granted in accordance with the following considerations:

(a) Variance. A variance may be granted by the ~~Department~~department upon a showing by the applicant or petitioner that the particular rule or regulation that is the subject of the variance request should not be applied as written because strict application of the rule would cause undue hardship. The applicant or petitioner must also show that adequate standards affording protection for the health, safety and care of the children exist and will be met in lieu of the exact requirements of the rule or regulations in question.

(b) Waiver. The ~~Department~~department may dispense entirely with the enforcement of a rule or regulation by granting a waiver upon a showing by the applicant or petitioner that the purpose of the rule or regulation is met through equivalent standards affording equivalent protection for the health, safety and care of the children.

(c) Experimental Variance or Waiver. The ~~Department~~department may grant waivers and variances to allow experimentation and demonstration of new and innovative approaches to delivery of services upon a showing by the applicant or petitioner that the intended protections

afforded by the rule or regulation which is the subject of the request are met and that the innovative approach has the potential to improve service delivery.

Authority O.C.G.A. Sec. 20-1A-1 *et seq.*

P. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 290-2-3-.18 entitled “Notice of Revocation or Emergency Suspension Actions” in its Rules and Regulations for Family Day Care Homes. This amendment shall include the following:

290-2-3-.18 Notice of Revocation or Emergency Suspension Actions

(1) The Department shall provide notice of its actions to revoke the license or seek an emergency suspension of the Home’s~~home’s~~ license to operate to Parents~~parents~~, guardians, and others who may have children in the care of the Home~~home~~. This notice, together with the Department’s complaint intake phone number and website, shall be provided to Parents~~parents~~, guardians, and others through the following methods:

(a) The posting of the official notice of the revocation or emergency suspension action and any final resolution at the Home~~home~~ by Departmental staff in an area that is visible to the Parents~~parents~~ and guardians whose children attend the Home~~home~~;

(b) The posting of the official notice of the revocation or emergency suspension action and any final resolution on the Department’s website; and

(c) The distribution by Departmental staff of a brief notice of the initial filing of actions to revoke or suspend the Home’s License~~home’s license~~ to the Parents~~parents~~ or guardians, or persons authorized to pick up the children from care for the Parents~~parents~~ or guardians, who are at the Home~~home~~ at the time that the notice of revocation or emergency suspension is posted by the Department.

(2) In addition, the Department may share any notice of the revocation or emergency suspension action and any information pertaining thereto with any other agencies which may have an interest in the welfare of the children in care at the Home~~home~~.

(3) When the Department has posted a notice of revocation and/or emergency suspension actions in the Home~~home~~, the Home~~home~~ shall ensure that the notice at the Home~~home~~ continues to be visible to the Parents~~parents~~ or guardians, and others throughout the pendency of the revocation and emergency suspension actions including any appeals. Where the Home~~home~~ provides transportation of the children in care to and from the Home~~home~~ and the Parents~~parents~~ or guardians, or others responsible for the care of the children do not come to the Home~~home~~ on a regular basis, the Family Child Care Learning Home~~family day care home~~ shall send Home~~home~~ with the children on the day that it is delivered by Departmental staff copies of the brief notice of the revocation or emergency suspension action to the Parents~~parents~~ or guardians, or others who are responsible for the care of the children enrolled in the Home~~home~~.

(4) The home Family Child Care Learning Home shall have posted at the Home~~home~~ in an area that is readily visible to the Parents~~parents~~ or guardians, and others any inspection reports that are prepared by the Department during the pendency of any revocation or emergency suspension action.

(5) It shall be a violation of these rules for the Homehome to permit the removal or obliteration of any notices of revocation, emergency suspension action, resolution, or inspection survey reports posted by the Department on the premises of the Homehome during the pendency of any revocation or emergency suspension action.

Authority O.C.G.A. Sec. 20-1A-1 *et seq.*

Q. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 290-2-3-.19 entitled “Safe Sleeping and Resting Requirements” in its Rules and Regulations for Family Day Care Homes. This amendment shall include the following:

290-2-3-.19 Safe Sleeping and Resting Requirements

(1) Sleeping and Resting Equipment.

(a) Cribs and Other Approved Sleep Equipment. The Homehome shall provide either a safety approved crib or other equipment that is approved for infant sleep for each infant who cannot climb out of the crib or other approved equipment. Each crib shall be safety approved in compliance with Consumer Product Safety Commission (CPSC) and American Society of Testing and Materials International (ASTM) safety standards; any other equipment, such as, but not limited to, a portable crib, playpen, play yard or bassinet, shall be in compliance with current ASTM Standard Consumer Safety Specifications for Non-Full-Size Baby Cribs/Play Yards. (“Infant” refers to any child under the age of twelve (12) months or any child who is under eighteen (18) months of age who is not walking.)

1. Crib Construction. Cribs and other equipment approved for infant sleep shall be in good repair and free of hazards. Stack cribs and cribs with drop sides shall not be used.

2. Crib Mattress. A mattress shall be provided for each crib and other equipment approved for infant sleep and shall be firm, tight-fitting, at least two inches (2") thick and covered with waterproof, washable material. Before a change of occupant, each mattress shall be cleaned with a disinfectant.

3. Crib Sheet. Each crib and other equipment approved for infant sleep shall have only an individual, tight-fitting sheet which is changed daily or more often as needed and prior to a change of occupant.

(b) Cots and Mats. Cots and mats shall be provided for each child who is two (2) years of age or older and who is required to take a nap and for each child under the age of two years who can climb out of a crib or other equipment approved for infant sleep.

1. Cot and Mat Construction. Cots and mats shall be of sound construction and of sufficient size to accommodate comfortably the size and weight of the child. Mats must be in good repair, washable, covered with waterproof material and at least two inches (2") thick.

2. Individual Use. Cots and mats must be used by the same child daily and marked for individual use.

3. Sheets. Sheets or similar coverings for cots or mats shall either be marked for individual use or laundered daily. If individually marked, they must be laundered weekly or more frequently if needed.

4. Covers. A light cover shall be available for each child's use on a cot or mat and shall be marked for individual use or laundered daily. If individually marked, they must be laundered weekly or more frequently if needed.

(c) Pillows. Pillows may be used only by children two (2) years of age or older. When used, pillows shall be assigned for individual use and covered with pillow cases that are marked for individual use or covered with cases that are laundered daily. Individually marked pillow cases shall be laundered weekly or more frequently as needed.

(d) Arrangement of Sleeping and Resting Equipment. All sleeping and resting equipment shall be arranged to avoid obstructing access to exit doors, to provide the caregivers access to each child, and to prevent children's access to cords hanging from window treatments and other hazardous objects. To reduce the transfer of airborne diseases, sleeping and resting equipment shall be arranged as follows. There shall be a minimum of twenty-four inch (24") corridor between each row of sleeping or resting equipment. There shall be a minimum of twelve inches (12") between each piece of sleeping or resting equipment in each row of equipment. Children shall be placed on cots and mats so that one child's head is toward another child's feet in the same row.

(2) Environment. A Family Child Care Learning Home~~family day care home~~ shall provide a safe sleep environment in accordance with American Academy of Pediatrics (AAP), Consumer Product Safety Commission (CPSC) and American Society for Testing and Materials (ASTM) recommendations as listed in (a) through (h) below. The rules listed in (a) through (h) below shall be followed for all infants and one-year-old children when placed for sleep in a safety approved crib or in any other type of equipment approved for infant sleep.

(a) Staff shall place an infant to sleep on the infant's back unless the Parent~~parent or guardian~~ has provided a physician's written statement authorizing another sleep position for that particular infant that includes how the infant shall be placed to sleep and a time frame that the instructions are to be followed.

(b) Staff shall not place objects or allow objects to be placed in or on the crib with an infant such as but not limited to toys, pillows, quilts, comforters, bumper pads, sheepskins, stuffed toys, or other soft items.

(c) Staff shall not attach objects or allow objects to be attached to a crib with a sleeping infant such as but not limited to crib gyms, toys, mirrors and mobiles.

(d) Sleepers, sleep sacks and wearable blankets that fit according to the commercial manufacturer's guidelines and will not slide up around the infant's face may be used when necessary for the comfort of the sleeping infant. Swaddling shall not be used unless the Home~~home~~ has been provided a physician's written statement authorizing its use for a particular infant that includes instructions and a time frame for swaddling the infant.

(e) The Home~~home~~ shall maintain the infant's sleeping area to be comfortable for a lightly clothed adult within a temperature range of sixty-five (65) to eighty-five (85) degrees depending

upon the season. There shall be lighting adequate to see each sleeping infant's face to view the color of the infant's skin and check on the infant's breathing.

(f) When an infant can easily turn over from back to front and back again, staff shall continue to put the infant to sleep initially on the infant's back but allow the infant to roll over into his or her preferred position and not re-position the infant.

(g) Wedges, other infant positioning devices and monitors shall not be used unless the ~~Parent~~~~parent or guardian~~ provides a physician's written statement authorizing its use that includes how to use the device and a time frame for using the device is provided for that particular infant.

(h) Infants shall only sleep in a safety approved crib or other equipment approved for infant sleep as described in 290-2-3-.19(1)(a) and shall not sleep in any other equipment, such as, but not limited to, a car safety seat, bouncy seat, highchair, or swing. Infants who arrive at the facility asleep or fall asleep in such equipment or on the floor shall be transferred to a safety approved crib or other equipment approved for infant sleep.

(3) Night-time Care. For ~~Homes~~homes that offer night-time care, each child, except infants and toddlers who require individual cribs, shall be provided an individual bed with a four inch (4") mattress or a cot with a two inch (2") pad. Such equipment shall be arranged so that the children's sleep will not be unnecessarily interrupted by delivery and pick up of other children.

(4) Storage. If cots and mats are stored in the children's activity room or area, they shall be stored to prevent children's access to them and to allow maximum use of play space. When storage is available and used for the storage of cots and mats that allows the cots, mats and any bedding to be stored without touching any other cots, mats or bedding, the bedding may be left on the cot or mat. When such storage is not available for the cots and mats, each child's bedding shall be kept separate from other children's bedding and stored in containers marked for individual use, such as, but not limited to, bins, cubbies, or bags.

Authority O.C.G.A. Sec. 20-1A-1 *et seq.*

R. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 290-2-3-.20 entitled "*E-Mail Contact Information*" in its *Rules and Regulations for Family Day Care Homes*. This amendment shall include the following:

290-2-3-.20 E-mail Contact Information

All Family Child Care Learning Home license applicants shall submit a valid e-mail address to the Department at the time of application on forms provided by the Department. ~~Each family day care home license holder in the state of Georgia shall provide the Department e-mail contact information ("Contact Information") so that this agency may contact the family day care home and send information to the Family Child Care Learning Home.~~ family day care home via email. It shall be the Family Child Care Learning Home's family day care home's responsibility to maintain correct contact information, to update the Department if contact information changes, and to respond timely to information requests from the Department transmitted to the provided e-mail address. Delivery of any such information, including but not limited to directives, bulletins, data requests, notices of proposed amendments to rules and regulations, and any other matters

affecting Family Child Care Learning Homes~~family day care homes~~, to said e-mail address shall be considered valid so long as the Department does not receive a failure to deliver message.

~~(a) All currently registered family day care homes shall send by the Department with an email address by June 1, 2009 on forms provided by the Department. All applicants for registration shall submit a valid e-mail address to the Department at the time of application on forms provided by the Department.~~

Authority O.C.G.A. Sec. 20-1A-1 *et seq.*

S. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 290-2-3-.21 entitled “*Criminal Records Check*” in its *Rules and Regulations for Family Day Care Homes*. This amendment shall include the following:

290-2-3-.21 Criminal Records Check

(1) Satisfactory Records Check Determination Required

~~(a) The Provider shall ensure that the Provider, every actual and potential Employee and every Provisional Employee of the Family Child Day Care Learning Home must have has a Satisfactory Records Check Determination before the individual is present at the Home while any child is present for care or before the individual resides in the Home.~~satisfactory criminal records check determination.

~~(b) The satisfactory determination must be made before the individual can begin work or is allowed to reside in the Home; and~~

~~(c) The Provider must ensure that no~~ (b) No actual or potential Provider, Employee or Provisional Employee of the Family Child Day Care Learning Home with an Unsatisfactory Records Check Determination may be present at a Home when any child is present for care. No individual with an Unsatisfactory Records Check Determination may reside in a Home. ~~resides at the Home.~~

(c) Valid Evidence of a satisfactory criminal records check as defined in these rules must be maintained at the Family Child Care Learning Home for the Provider, each Employee (including Students-in-Training, volunteers, independent contractors and residents age 17 and older) and each Provisional Employee for the duration of employment or residency plus one year, and such evidence must be made immediately available to the Department upon request.

(d) Each Employee hired on or after January 1, 2014 must have a satisfactory Fingerprint Records Check Determination with a Records Check Clearance Date that is within the preceding 12 months of the hire date. In order for the Department to issue a satisfactory Fingerprint Records Check Determination, each Employee and Provider must submit both a Fingerprint Records Check Application to the Department and Fingerprints to an authorized fingerprinting site.

(e) Every Employee hired before January 1, 2014 must have either a satisfactory Preliminary Records Check Determination or a satisfactory Fingerprint Records Check Determination on file.

If the Employee hired before January 1, 2014 has only a satisfactory Preliminary Records Check Determination on file, such Employee must obtain a Fingerprint Records Check Determination before January 1, 2017.

(f) Every Provider licensed before January 1, 2014 must receive a new satisfactory Fingerprint Records Check Determination before January 1, 2019.

(g) All Provisional Employees hired on or after January 1, 2014 must have a satisfactory Preliminary Records Check Determination. A Provisional Employee cannot reside at the Home or be present at the Home while children are present for care for more than 21 days from the date of hire or first day of residency without first submitting both a Fingerprint Records Check Application to the Department and Fingerprints to an authorized fingerprinting site.

(h) For a Provisional Employee to become a permanent Employee, the individual must have a satisfactory Fingerprint Records Check Determination.

(i) Portability for Employees (including Students-in-Training with a Records Check Clearance Date before January 1, 2016). A Provider may accept a satisfactory determination letter issued by the Department for a potential Employee (including a Student-in-Training with a Records Check Clearance Date before January 1, 2016) as sufficient evidence of that individual's Satisfactory Records Check Determination if the Records Check Clearance Date is within the preceding 12 months from the hire date, and the Provider does not know or reasonably should not know that the individual's satisfactory status has changed.

(j) Portability for Students-in-Training with a Records Check Clearance Date on or after January 1, 2016. A Provider may accept a satisfactory determination letter issued by the Department for a Student-in-Training with a Records Check Clearance Date on or after January 1, 2016 as sufficient evidence of that individual's satisfactory criminal records check determination if the Records Check Clearance Date is within the preceding 24 months from the hire date, the Provider has verified and maintains evidence on file at the Home that the Student-in-Training is currently enrolled in a high school recognized by the Department of Education or an early education curriculum through an accredited school of higher education, and the Provider does not know or reasonably should not know that the individual's satisfactory status has changed.

(k) Portability for Provisional Employees. A Preliminary Records Check Determination rendered by a Provider is not portable; however, GCIC-based criminal history information obtained from local law enforcement can be used by more than one child care program so long as it was issued within the preceding 10 days of the hire date.

(l) Recheck Required. A new Fingerprint Records Check Determination is required at the following times:

1. A Home must immediately require a new Fingerprint Records Check Determination if the Provider knows or reasonably should know that an Employee has been arrested or charged for any covered Crime;

2. A Provider or Employee that has a Satisfactory Records Check Determination issued before January 1, 2014 must have a new Fingerprint Records Check Determination by January 1, 2019;

3. Effective January 1, 2019, a Home must require a new Fingerprint Records Check Determination for the Provider and each Employee such that the time between the new and the prior records check determination is not more than five years; and

4. A Home must require a Fingerprint Records Check Determination for any Provider, Employee or Provisional Employee if the Department so requests.

~~(d) The Provider must ensure that evidence of a Satisfactory Records Check Determination be maintained at the Family Day Care Home for the Provider, each Employee, including residents and Provisional Employee for the duration of employment plus one year.~~

~~(2) Records Check Requirements for Providers~~

~~(a) Type of Records Check. All Providers are required to have a fingerprint-based criminal records check determination by the Department.~~

~~(b) Records Check Determination Process. In order for the Department to issue a Satisfactory or Unsatisfactory Records Check Determination, the Provider must submit the following:~~

~~1. A completed Fingerprint Records Check Application to the Department; and~~

~~2. Fingerprints to an authorized fingerprint processing site.~~

~~(c) Evidence of Satisfactory Records Check Determination Required. The Provider must have sufficient evidence in the Home that the Provider has a Satisfactory Records Check Determination issued by the Department that is on file at the Home and immediately available to the Department upon request. Sufficient evidence must be either:~~

~~1. A current satisfactory determination letter issued by the Department for the Provider; or~~

~~2. A valid court order indicating that an unsatisfactory determination made by the Department for the Provider has been reversed.~~

~~(d) Recheck Required. A new Fingerprint Records Check Determination is required in the following circumstances:~~

~~1. Beginning January 1, 2019, each Provider that has a Satisfactory Records Check Determination issued on or before January 1, 2014, must obtain a new Fingerprint Records Check Determination by January 1, 2019 and must obtain a new satisfactory Fingerprint Records Check Determination at least every five years thereafter;~~

~~2. Beginning January 1, 2019, each Provider must have a satisfactory Fingerprint Records Check Determination on file that has been issued within the past five years;~~

~~3. A Provider must seek a new Fingerprint Records Check Determination if the Provider has a Criminal Record as defined in these rules, has been arrested or charged for any covered Crime as defined in these rules, or has a satisfactory criminal record status that has changed; and~~

~~4. A Provider must seek a new Fingerprint Records Check Determination if the Department so requests.~~

~~(e) Penalty. Failure to adhere to this rule shall result in revocation of the Home Registration;~~

~~(3) Records Check Requirements for Employees Hired before January 1, 2014.~~

~~(a) Type of Records Check. All Employees hired before January 1, 2014 must have:~~

~~1. Before January 1, 2017, either a Preliminary Records Check Determination or a fingerprint-based criminal records check determination by the Department; and~~

~~2. As of January 1, 2017, a fingerprint-based criminal records check determination by the Department.~~

~~(b) Records Check Determination Process.~~

~~1. For Employees hired before January 1, 2014 that have a preliminary criminal records check, a Provider must have reviewed current GCIC-based criminal history information (such as that on a RAP sheet) obtained from local law enforcement and determined that the Employee does not have a Criminal Record as defined in these rules.~~

~~2. For Employees hired before January 1, 2014 to have fingerprint-based criminal records check determination, the Provider must ensure that the following is submitted for each Employee:~~

~~(i) A completed Fingerprint Records Check Application to the Department; and~~

~~(ii) Fingerprints to an authorized fingerprint processing site.~~

~~(c) Evidence of Satisfactory Records Check Determination Required. The Provider must have sufficient evidence that every Employee hired before January 1, 2014 has a satisfactory criminal records check determination on file and immediately available to the Department upon request. Sufficient evidence must be one of the following:~~

~~1. A current satisfactory determination letter issued by the Department for the Employee; or~~

~~2. A valid court order indicating that an unsatisfactory determination made by the Department for the Employee has been reversed; or~~

~~3. If prior to January 1, 2017 a satisfactory Preliminary Records Check Determination.~~

~~(d) Portability. A Provider may accept a satisfactory determination letter provided by a potential Employee which was issued by the Department as sufficient evidence of that individual's satisfactory criminal records check determination if;~~

1. The determination letter was issued by the Department within the immediate preceding 12 months from the hire date; and

2. The Provider does not know or reasonably should not know that the individual's satisfactory status has changed.

(e) ~~Recheck Required.~~ A new Fingerprint Records Check Determination for Employees hired before January 1, 2014 is required in the following circumstances:

1. Beginning January 1, 2019, each Employee that remains employed at a Home and has a Satisfactory Records Check Determination issued prior to January 1, 2014 must obtain a new Fingerprint Records Check Determination by January 1, 2019 and must obtain a new satisfactory Fingerprint Records Check Determination at least every five years thereafter;

2. Beginning January 1, 2019, each Employee must have a satisfactory Fingerprint Records Check Determination on file that has been issued within the past five years;

3. A Provider must seek a new Fingerprint Records Check Determination if the Provider knows or reasonably should know that an Employee has a Criminal Record as defined in these rules, has been arrested or charged for any covered Crime as defined in these rules, or has a satisfactory criminal record status that has changed; and

4. A Provider must seek a new Fingerprint Records Check Determination if the Department so requests.

(f) ~~Penalty.~~ Failure to adhere to this rule shall result in revocation of the Home Registration.

(4) Records Check Requirements for Employees Hired On or After January 1, 2014.

(a) ~~Type of Records Check.~~ All Employees hired on or after January 1, 2014 must have a fingerprint-based criminal records check determination by the Department.

(b) ~~Records Check Determination Process.~~ In order for the Department to issue a Satisfactory or Unsatisfactory Records Check Determination, the Provider must ensure that the following is submitted for each potential Employee hired on or after January 1, 2014:

1. A completed Fingerprint Records Check Application to the Department; and

2. Fingerprints to an authorized fingerprint processing site.

(c) ~~Evidence of Satisfactory Records Check Determination Required.~~ The Provider must have sufficient evidence that every Employee hired on or after January 1, 2014 has a satisfactory Fingerprint Records Check Determination on file and immediately available to the Department upon request. Sufficient evidence must be either:

1. A current satisfactory determination letter issued by the Department for the Employee; or

2. A valid court order indicating that an unsatisfactory determination made by the Department for the Employee has been reversed.

~~(d) Portability.~~

~~A Provider may accept a satisfactory determination letter provided by a potential Employee which was issued by the Department as sufficient evidence of that individual's satisfactory criminal records check determination if:~~

- ~~1. The determination letter was issued by the Department within the immediate preceding 12 months from the hire date; and~~
- ~~2. The Provider does not know or reasonably should not know that the individual's satisfactory status has changed.~~

~~(e) Recheck Required. A new Fingerprint Records Check Determination for Employees hired on or after January 1, 2014 is required in the following circumstances:~~

- ~~1. Beginning January 1, 2019, each Employee that remains employed at a Home and has a Satisfactory Records Check Determination issued on or before January 1, 2014, must obtain a new satisfactory Fingerprint Records Check Determination at least every five years thereafter;~~
- ~~2. Beginning January 1, 2019, each Employee must have satisfactory Fingerprint Records Check Determination on file that has been issued within the past five years;~~
- ~~3. A Provider must seek a new Fingerprint Records Check Determination if the Provider knows or reasonably should know that an Employee has a Criminal Record as defined in these rules or has a satisfactory criminal record status that has changed; and~~
- ~~4. A Provider must seek a new Fingerprint Records Check Determination if the Department so requests.~~

~~(f) Penalty. Failure to adhere to this rule shall result in revocation of the Home Registration.~~

~~(5) Records Check Requirements for Provisional Employees~~

~~(a) Type of Records Check. All Provisional Employees hired on or after January 1, 2014 must have a satisfactory Preliminary Records Check Determination.~~

~~(b) Records Check Determination Process.~~

- ~~1. As of January 1, 2014, before a Provisional Employee can be hired, a Provider must make a Preliminary Records Check Determination for that person.~~
- ~~2. A satisfactory Preliminary Records Check Determination requires a Provider to review current GCIC-based criminal history information (such as that on a RAP sheet) obtained from local law enforcement that was issued within the immediate preceding 10 days of the hire date and make a written statement or declaration that the Provisional Employee does not have a Criminal Record as defined in these rules.~~
- ~~3. For a Provisional Employee to become a permanent Employee, the individual must have a satisfactory Fingerprint Records Check Determination. Within the first 21 calendar days or~~

~~provisional employment, the Provider must ensure that the following is submitted for every Provisional Employee that the Provider wishes to hire as a permanent Employee:~~

- ~~1. A completed Fingerprint Records Check Application to the Department; and~~
- ~~2. Fingerprints to an authorized fingerprint processing site.~~

~~(c) Evidence of Satisfactory Records Check Determination Required. The Provider must have sufficient evidence that every Provisional Employee hired has a satisfactory Preliminary Records Check Determination. Sufficient evidence must:~~

- ~~1. on file;~~
- ~~2. immediately available to the Department upon request;~~
- ~~3. Include a written declaration or statement of fact indicating that the Provisional Employee has a satisfactory Preliminary Criminal Records Check Determination; and~~
- ~~4. Include either:~~

~~(i) Current GCIC-based criminal history information (such as that on a RAP Sheet) obtained from the Georgia Bureau of Investigation within the immediate preceding 10 days of the hire date indicating that the Provisional Employee does not have a Criminal Record as defined in these rules; or~~

~~(ii) A valid court order indicating that an unsatisfactory determination has been reversed.~~

~~(d) Portability. A Preliminary Records Check Determination rendered by a Provider is not portable; however, GCIC-based criminal history information (such as that on a RAP Sheet) obtained from local law enforcement can be used by more than one child care program so long as it was issued within the immediate preceding 10 days of the hire date.~~

~~(e) Penalty.~~

~~Failure to adhere to this rule may result in revocation of the Home Registration.~~

Authority O.C.G.A. Sec. 20-1A-1 *et seq.*

II. Public Comment on Proposed Amendments to *Rules and Regulations for Family Day Care Homes*:

The proposed amendments to the *Rules and Regulations for Family Day Care Homes* as noted above have been posted to Bright from the Start's website at <http://dec.al.ga.gov/ChildCareServices/ProposedRevisions.aspx>.

The proposed changes are being considered for adoption on a permanent basis, and Bright from the Start invites interested parties to comment on them. All comments, written and verbal, will be given full consideration.

Interested parties may submit written comments by mail to 2 Martin Luther King, Jr. Drive SE, Suite 754, East Tower, Atlanta, GA 30334, by fax to (404) 656-0351 or by e-mail to CCSRuleRevisions@dec.al.ga.gov. To be considered, Bright from the Start must receive written comments on or before 5 p.m., November 10, 2015.

Interested parties who prefer to make verbal comments on the proposed rule changes may do so at a public hearing before the Board of Early Care and Learning. The public hearing will be held from 1 p.m. to 2 p.m. at 2 Martin Luther King Jr. Drive SE, East Tower 8th Floor, Oak Room, Atlanta, Georgia 30334 on Thursday, November 12, 2015. Speakers should sign in to speak before 1 p.m. If no guest speakers arrive by 1:30 p.m., the board will resume its regular meeting. Comments made in writing will be given the same consideration as those that are made verbally.

All interested parties are invited to attend the public hearing even if they choose not to make verbal comments regarding the rule amendment proposals.


All written comments received by 5 p.m. November 10, 2015 will be shared with the Board members of Bright from the Start in reference to Bright from the Start's proposal to amend its Family Day Care Home rules in Rule Chapter 290-2-3 in the *Rules and Regulations for Family Day Care Homes*. After the Board decides to adopt or reject the proposed rule changes, an order adopting or rejecting the proposal will be posted on the department's website at www.dec.al.ga.gov.

This notice of proposed rulemaking is being issued pursuant to O.C.G.A §§ 20-1A-1 *et seq.* and 50-13-4. If you have any questions about the notice, contact Kristie Lewis, Assistant Commissioner for Child Care Services, at (404) 657-5562.

If, due to a disability, you need this notice in an alternate format or if you plan to make verbal comments and will require special accommodations, call Kristie Lewis at the number referenced above. Please do this as soon as possible but no later than ten (10) days before the above referenced public hearing.

We appreciate our partnership with you in meeting the early care and education needs of Georgia's children and families, and we value your expertise and experience as we refine the rules and regulations that ensure our children remain healthy and safe.

Sincerely,



Amy M. Cobb
Commissioner